have been doubled, and the army is cooperating by sending units to coastal villages to arrest friends and relatives of refugees, charging them with complicity.

As a general rule, the larger the "jury" at a public trial, the heavier the penalty. Peking's Current Affairs Journal has formally blessed the technique: "The enthusiasm of active elements in making accusations and passing sentences can be prepared amongst selected groups beforehand. It is desirable to regulate the degree of tension. . . . The masses can be stimulated right from the beginning; then pressure can be slackened to allow time for ideological precept and discussion; finally tension must be again strengthened so that the feeling of mass indignation can last until the end of the trial."

There has been one modification in protocol for these revived mass trials. In the past, formal approval by the Supreme Court was mandatory before the firing squad took over. That bourgeois regulation has now been repealed—or forgotten.

LAW AND ORDER, PEKING STYLE

(Compiled by Richard Hughes.)

I

Radio Peking (Jan. 20): "Six prisoners were found guilty this week at a People's Court of political crimes, counter-revolutionary plotting against the masses and the state, and conspiring with the archrenegade, archrevisionist, ugly scab and traitor Liu Shao-chi. They were found guilty of corruption, bribery and embezzlement. After a public hearing of evidence, all pleaded guilty and—amid shouts of 'Long Live Chairman Mao!'—they were executed on the spot."

Eyewitness report (from neutral Asian diplomat): "Probably 20,000 members of the 'jury,' dominated by a huge billboard portrait of Chairman Mao, were assembled in the sportsground near Peking's West Gate when the six prisoners, with shaven heads, were dragged into the arena. All rose and shouted: 'Guilty! Death!'

"It was 9 o'clock on a bitterly cold January morning this Year of the Dog, with a pitiless wind cutting high over the Great Wall and the Western Hills from the Gobi Desert.

"Three guards handled each prisoner; two grasped his arms, the other forced down his head. On each man's chest was a placard proclaiming his crimes. Five 'judges' marched into the arena; two women, two men in uniform, and a senior in civilian clothes from the secret police. A band blared 'The East Is Red,' and the execution squad, with submachine guns, stood at attention and then relaxed for the trial, bored, chatting, smoking.

"Charges were read against each prisoner in turn. Witnesses were called and bawled their evidence through loudspeakers, brandishing the little red book of Chairman Mao's 'Thoughts.' No defense was allowed or plea taken. Following a lead from the claque in the front seats of the bleachers, the whole 'jury' rose once more, shouting: 'Guilty! Death!'

"The first prisoner was dragged before the firing squad, tied to a post in front of a high screen, and shot immediately and efficiently. The body was dragged to one side and turned over on its back. Justice had taken 20 minutes.

"The same procedure was followed with the remaining five prisoners, except that proceedings were hastened. and only 10 minutes were needed to try and shoot the last man. By 11:30, the 'jury' was marching out to the tune of 'Sailing the Sea Depends Upon the Helmsman.' Some crossed the arena to file triumphantly past and spit, and even urinate, upon the six bodies. By noon, the crowd had been cleared by waiting trucks or had dispersed on foot to neighboring factories. But the bodies lay there all day."

II

Radio Canton (*May 12*): *"A young woman was yesterday tried and found guilty at a People's Court in Lu Chueh of the theft of a bicycle. Her father was also found guilty of having failed as head of the family to hold regular family classes to study Chairman Mao's 'Thoughts.' Both admitted their guilt. The People's Court shouted approval when the comrade judge referred the prisoners to the Public Security Bureau in Namhoi for sentence. The trial opened at 7 A.M. and closed at 11:30 A.M."*

Eyewitness Report (from a Hong Kong resident who was visiting relatives at the Lu Chueh commune): "A teen-aged girl was charged with the theft of a bicycle—a curious offense, because she could only have ridden it around secretly at night. However, her crime assumed new dimensions when it was alleged, improbably, that she was planning to escape to Hong Kong by bicycle—a difficult venture even for an invisible cyclist. Several neighbors bore witness against her, as she sat, weeping silently, head bowed, on a stool between two militiamen; two of the witnesses struck her on the head with their copies of Chairman Moa's 'Thoughts.'

"The girl's father was charged with having been an accessory to the theft—which was not legally proved, because the bicycle was not produced and no one could suggest what the girl had done with it. Other witnesses, also striking him on the head as he squatted silently, accused the father of contempt for Chairman Mao's teachings and neglect of family study of the 'Thoughts,' and demanded that he submit to reform through hard labor.

"This trial lasted for more than four hours, and it appears that the 'jury' became restive toward the close, although none dared leave. Finally, the pair were led away, separately, for sentencing. The forecast in the commune is that they will be sent to different labor camps for terms of 'reform' ranging from two to four years."

III

Radio Canton (*May 28*): *"Six enemies of the people, who had been convicted at a Canton People's Court of having been supporters of Liu Shao-chi, of having started factional fighting during the cultural revolution, of having helped people to escape, of having listened to reactionary radio stations and of having been employes of a foreign state, were publicly executed yesterday at Shumchün [on the Hong Kong border]. All admitted their guilt before execution."*

Eyewitness report (from a Hong Kong resident who was in Shumchün after visiting relatives in Canton): "The shootings started at 9 A.M., after villagers had come to the hillside outside the village. This execution center cannot be surveyed by Hong Kong police from their lookout at Lowu [on the Hong Kong side of the border]. The six men were dragged, in turn, to the execution spot and killed by a firing squad with submachine guns.

"The first man kept shouting, 'I am innocent,' and was crying and wailing as the army men tied him to a pole. The other five offered no resistance. One was shot sitting on a box; three were shot standing up; the last man refused to stand up and was shot kneeling. There was an interval of 10 minutes between executions. Soldiers photographed each execution.

"During the executions, there were heavy showers of rain, but this did not delay the performance. Afterward, many of the audience, men, women and children, filed past the corpses, which had been kicked over onto their backs in a row by the armed men. The bodies lay there all day and night. I did not return. But I am told that they remained there until the next noon, and were frequently defiled by passing groups, organized by the army."

Another eyewitness report (from a child of Hong Kong parents, also returning home): "My No. 1 uncle and aunty took me up on the roof to see the men shot. I did not like to see. One man was shouting out before he was shot dead. I started to cry and hid my eyes. My aunty was very angry with me and took me off the roof, while people laughed at us, saying she had lost face."

CPL. DAVID L. SMITH

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 14, 1970

Mr. GAYDOS. Mr. Speaker, it is with deep regret that I announce the death of another of our brave fighting men, Cpl. David L. Smith, of Clairton, Pa., who was killed in Southeast Asia.

We owe a profound debt of gratitude and appreciation to our dedicated servicemen who sacrificed their lives for this great country. In tribute to Corporal Smith for his heroic action, I wish to honor his memory and commend his courage and valor, by placing in the RECORD the following article:

CITY MARINE DIES IN SOUTHEAST ASIA

Marine Cpl. David L. Smith, son of Mr. and Mrs. Lawrence W. Smith of 31–D Miles Ave., has been reported killed in combat in Southeast Asia by the U.S. Defense Department.

Cpl. Smith, 22, a 1966 graduate of Clairton High School, entered the Marines May 23, 1968. He had been in the war theater, notably Vietnam, approximately seven and a half months, according to members of his family.

The young Marine is survived by his parents, two brothers and a sister.

SENATE—*Monday, August 31, 1970*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou who art from everlasting to everlasting, yet the light of each new day, make known Thy presence to us not only in the moment of prayer, but also in the doing of each task. Take us as we are, O Lord, and reinforce our human endowments with divine energy. Sharpen our intellects. Refine our perceptions. Regulate our emotions. Direct our wills. Make sound our judgments. Grant that in all we do this Nation may be well served, mankind uplifted, and Thy kingdom extended.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of

the Journal of the proceedings of Friday, August 28, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States submitting the nomination of John N. Irwin II, of New York, to be Under Secretary of State, which was referred to the Committee on Foreign Relations.

MESSAGE FROM THE HOUSE— ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 17133) to extend the provisions of title XIII of the Federal Aviation Act of 1958, as amended, relating to war risk insurance.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for 1½ hours.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield briefly?

Mr. ALLEN. Mr. President, I am glad to yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at 10 o'clock this morning the able Senator from New York (Mr. JAVITS) be recognized for not to exceed 10 minutes, the time to come out of the time on the Muskie amendment, to be equally divided, and that at 10 minutes past 10 o'clock this morning the Muskie amendment be laid before the Senate and made the pending business.

The ACTING PRESIDENT pro tempore. Without objection, the several requests are granted.

FORCED IMMEDIATE DESEGREGATION POLICIES

Mr. ALLEN. Mr. President, I appreciate the opportunity that has been afforded me, through unanimous consent of the Senate, to speak on a subject that is near and dear to the hearts of the people of Alabama and of the South, and that is our public school system and our boys and girls who go to those schools.

Mr. President, some of the schools in Alabama opened before this week, many opened today, others will open next week. Many school systems are in a state of chaos as a result of the forced immediate desegregation policies of Washington bureaucracy and the Federal courts.

Mr. President, what I have to say today is said in the interest of public school education.

Public school education in the South and in the Nation cannot survive in the absence of strong public support. Public support is diminishing. The institution of public education is in danger.

The interest and welfare of the Nation are involved and the interest and welfare of countless millions of schoolchildren lie in the balance, waiting decisions which this Congress and the Supreme Court must make on fundamental principles of our constitutional system of government, as they relate to our children and to public education. This then is the motive of my remarks and the cause for which I speak.

SITUATION IN ALABAMA PUBLIC SCHOOLS

Mr. President, let me begin with an account of the current chaotic public school situation in the public schools of Alabama.

Letters from concerned parents pour into my office in a continuous stream. They describe factual situations which are well nigh incredible.

These letters speak of community schools being closed on court order and children scattered and bused all over cities and counties.

The cost of construction of many of these schools was financed from proceeds from the sale of bonds on which outstanding indebtedness remains. Payments of these obligations are made from proceeds of taxes voluntarily assumed by citizens of separate communities in some instances and by the people of Alabama in other instances. The proceeds are dedicated by law to payment, and payment is further guaranteed by obligations of contract. The effect is that the people of these communities must continue to pay taxes for public school facilities which have been odered closed and abandoned by Federal authorities.

I have a letter from a county school superintendent indicating that school facilities constructed at a cost of over $1 million in his county alone have been ordered abandoned by Federal court decree, despite the fact that about three-fourths of the outstanding bonded indebtedness remains and must yet be paid.

Throughout the State of Alabama public school facilities with a value in excess of $100 million have been ordered abandoned and closed to public use, on orders of Federal officials.

Concerned parents write and properly object to the uprooting of their children from their communities and neighborhoods. They object to their children being compelled to travel long distances by public or private transportation to and from school. In many instances an undue amount of time is required to travel to and from schools, and parents on farms are deprived of services of their children in the performance of useful chores. Others point out that as parents they are denied the opportunity of adequate parental supervision. In other instances parents point out that schoolbus transportation is not provided and that their children must walk long distances to and from school and that their children are deprived of the opportunity to participate in extracurricular school activities, and also the opportunity for recreation in their neighborhoods.

Some parents complain that their children are arbitrarily assigned to schools which do not offer college preparatory courses—that their children are denied opportunities to continue study in foreign languages and courses in higher mathematics. Others say that their children have no opportunity to continue instruction in music, glee clubs, and school bands, and still others complain that their children can no longer participate in high school athletics because of the lack of transportation and the time involved in going to and from school.

Thousands of concerned parents complain of arbitrary assignments of their children to overcrowded schools while school buildings and classrooms nearer their homes have been abandoned. They cannot understand, nor can I, why thousands of Alabama schoolchildren must be bused or compelled to walk to schools which are overcrowded, inadequately staffed, poorly equipped, and without reasonable sanitary facilities when perfectly good schools are available in their communities or neighborhoods.

So it would seem to the junior Senator from Alabama, Mr. President, that the Federal bureaucracy, the HEW, the Justice Department, and the Federal courts, are more interested in the sociological experiment regarding the desegregation of the public schools than they are in the education of our children. But the people of Alabama are not interested in sociological experiments. They are interested in the welfare, the education, the health, and the safety of their children.

We resent, Mr. President, the fact that the Federal school policy with respect to desegregation of public schools demands the immediate, the forced desegregation of public schools in Alabama and the South, and at the same time, in sections outside the South, segregation continues to be protected and fostered, and even encouraged.

Mr. President, the administration boasts that by September—and September will be here tomorrow—97 percent of the public school districts in the South will have been desegregated. Contrast that with the report of the board of regents of the University of the State of New York, in which they point out—and this report was dated in late 1969—that segregation in the public schools of New York State is increasing rapidly.

The people of Alabama and the people of the South resent this type of policy, and we feel that a uniform policy should be adopted. But we find that the very people who are insisting on the immediate forced desegregation of the public schools of the South are the very ones

who fight the hardest to continue segregation in the public schools of the North.

Mr. President, schoolchildren in Alabama are being compelled to attend schools so overcrowded that classes must be held in auditoriums, libraries, and cafeterias or in temporary, makeshift, portable buildings.

Teachers point out that vested tenure rights are being abrogated and that hundreds of teachers are being uprooted from their communities and assigned willy-nilly on the basis of the single consideration—racial balance criterion.

School superintendents, principals, and members of local school boards justifiably protest that the Department of Health, Education, and Welfare, the Department of Justice, or the U.S. district courts have imposed school plans and conditions which are impossible of implementation. By impossible, they mean that they have neither the power nor the funds to comply with the plans imposed upon them.

Mr. President, I have a letter from a concerned parent which points out that her child is forbidden to attend a public school almost across the street from her home. I have another letter that indicates that an emotionally disturbed child is not permitted to attend a neighborhood school but has been arbitrarily reassigned to a school across the city which requires transportation by public conveyance, a transfer downtown, and an additional trip across the city, all this despite the fact that the emotionally disturbed condition of the child has been verified by certification of a doctor.

Mr. President, I have previously addressed the Senate on most of these problems. Hundreds of additional examples could be cited. I believe, however, that it is clear that a human tragedy is taking place in Alabama. But the problem is not limited to Alabama. Nor is it limited to southern States.

The problem is nationwide in scope. It will help to provide perspective if we briefly examine the problem from a national viewpoint

Material illustrative of the national scope of the problem is nearly inexhaustible. However, I will cite and quote from only a few sources which make the point.

First let me refer to an article which appeared in the New York Times Magazine, May 2, 1965, entitled "Close to Midnight for New York Schools." That title is significant. Here are a few observations excerpted from the article:

> Not long ago many of us felt that a large share of the Negro failure in the schools was itself the product of segregation, but almost nobody whose opinion is worth considering believes it today. Personally, I think that open enrollment did make some positive difference in the accomplishment of the Negro children who rode the buses—but I can't prove it and neither can anyone else.
>
> The American tradition of the common school—

This is important because it reflects my view and, I believe, that of the majority of the people of the United States—

> rests on the willingness of parents who have a choice to send their children to the public school. They do so because they believe the public schools adequate to what they regard as the needs of their children; when they lose faith in the serviceability of public education, they send their children to private schools or to suburban schools, once described by U.S. Commissioner of Education Francis Kepple as "private school systems run on public funds."
>
> And though ministers and rabbis whose own children go or have gone to private schools are now making the matter a moral issue, the parents who withdraw their children from the city public schools are not to be criticized for it. *There is nothing admirable or truly humanitarian about people who are prepared deliberately and consciously to sacrifice their children for the sake of their political principles.* (Emphasis supplied).

To illustrate further the national scope of the problem, let me quote from another source to illustrate the geographic distribution of the problem. An article appeared in the August 1969 issue of Nation's Business, from which the following observations have been excerpted.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. ALLEN. Yes; I am delighted to yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I am impressed with what the distinguished Senator from Alabama is saying. I hold the feeling, and I think it is shared by a great number of people, that, traditionally, with residence has gone the choice of a school. I think that there is strong historical proof of this fact.

As the pioneers first settled this great land of ours and then as they began their migration westward, without exception, schools and churches were two of the first public institutions that were built.

Mr. ALLEN. Yes; I think that is certainly true.

Mr. HANSEN. A great many people, in choosing a home, are interested in knowing how far their children will have to go in order to get to a school. I am certain that most young people with children, or those whose children are yet to be born, probably look at a community in its total aspect and consider proximity to schools and the type of education offered in choosing the place where they may live.

Conversely, I think it is true that there is much to be said for the confidence, the assurance that a youngster has when he first begins school, when he is able to be with youngsters that he has known in preschool days. I happen to believe that one of the most objectionable side effects of busing of children, particularly young children, is that when a child in the first grade is loaded onto a bus and moved out of the neighborhood, away from his friends, many tensions can easily develop in that young person.

So there are two situations: First, those persons who deliberately choose a locality because of many considerations, including that of schools; second, the situation that evolves in which people find themselves in a particular community and because their children have reached the first grade in that area, they, too, would hope that their children would not have to be removed from that area when they begin school.

Does the junior Senator from Alabama share my feeling in this regard?

Mr. ALLEN. Yes, I certainly do. I appreciate very much the contribution that the distinguished Senator from Wyoming is making to this discussion.

I recall most pleasantly that all through the some 20 months of this Congress, as the problems of the public schools of the Nation have been under discussion in the Senate, the distinguished Senator from Wyoming has shown an all too rare perception of the problem involved, an all too rare sympathy with the South in our problem of trying to save our public school systems.

I want to commend and express my appreciation to the distinguished Senator from Wyoming for his stand on the issues that have been presented to the Senate in this area. I recall his votes for freedom of choice, for neighborhood schools, for the Stennis amendment, and for uniform application of the desegregation rules and guidelines of the Federal Government.

I hope that the distinguished Senator from Wyoming would feel that this would be a compliment; I intend it in that fashion. It is the opinion of the junior Senator from Alabama that the distinguished Senator from Wyoming would make a most able southern U.S. Senator, that he would feel very much at home in Alabama, and that he would feel very much at home in some of the seats on this side of the aisle.

Again I express my appreciation to the distinguished Senator.

Mr. HANSEN. Mr. President, if the Senator will yield further, let me say that I am indeed grateful to him for his very generous observation. I should like to make a couple of further observations, if I may.

No. 1, without going into the historical situation from which arose the argument over de jure and de facto segregation, I think few people can deny that today most of those persons who are caught up in so-called de jure segregation, to which one set of laws apply, as well as those involved in a de facto segregation situation, to which a different set of laws apply, cannot be held responsible for either situation. That may have been true in the past; I do not deny that at all. But although there were conscious, deliberate, legislative, and administrative efforts to segregate races in the schools in the past, I think that today, if we are fair with ourselves, we will have to say that the overwhelming majority of people, whether they live in the South or in the North, had not had all that much to do with it. As a consequence, I take a dim view of some legislators and some members of the courts and others who, while publicly inveighing against segregation in the Halls of Congress and in the courts throughout the land, do everything they can to put on the record the condemnation that they would like to be a part of insofar as de jure segregation goes; yet they will turn around, by their actions, and perpetuate de facto segregation.

To me, it is interesting. But I could not take the position that is taken by some legislators, saying the things that have been said by them and then doing what a good many of them have done.

If they believe that this system is as good for the country as they proclaim it is, all I can say is that they ought to be in the Chamber today, helping to introduce legislation and seeing to it that it is enacted, which would desegregate, whether it be de facto or de jure segregation, and seeing to it that there is a uniform blend of the races throughout the United States, insofar as that can be accomplished.

When it came to that point, I think a great many legislators would have to admit that the very points that are being made by the distinguished Senator from Alabama have a great deal of validity, that it just might be more important to a young schoolchild, attending school for the first time, to have the advantage of going to school near at home, to have the advantage of being with friends he has known and has played with, and not to be subjected to the trauma, which surely will follow, of being picked up and hauled by bus to some distant school, to be placed with youngsters none of whom he has ever seen before. All the advantages that are recognized that go with matriculating in a school near home, to which the Senator has alluded, for the most part are denied this youngster, plus the fact that he is subjected to the emotional strain of being removed far from home, far from friends, far from anyone he knows.

I would hope that the Members of this body and of the other body and some members of the court would be honest enough with themselves to say that they would be perfectly willing to have their children treated in precisely the same manner as they now contend must be accorded a great many children in the South and a great many children in some other parts of the country. I will think that they are sincere when they take the leadership in such a movement.

If children can be bused across school district lines and across county lines, I see no reason why they cannot be bused across State lines, if the practice of busing is considered so desirable. It is not too far to bring them across the Potomac River; but I think that to start bringing youngsters from Maryland and Virginia into the District and taking youngsters from the District into Maryland and Virginia, some of those who now find so much merit in the course they have helped to chart for the schools of this country would be the first to cry "Stop!"

I thank the distinguished Senator for letting me take so much of his time.

Mr. ALLEN. I thank the distinguished Senator from Wyoming for his penetrating analysis of this problem and this situation. He has certainly touched on a most sensitive area in pointing out that if segregation is bad in the South, if it results in unequal educational opportunities in the South, if desegregation should be forced on the South, then these same rules, these same principles should be applied as well in sections outside the South, and that the very people who are insisting on forced, immediate desegregation in the South should adopt the same attitude with respect to segregation in the public schools of the North.

I should like to suggest also that some day we are going to have a uniform policy with respect to racial balance in the public schools, North and South, and whatever Congress in its wisdom, whatever the HEW, whatever the Federal courts mete out to the South today will some day be meted out in equal measure to sections outside the South. We cannot continue indefinitely to have one system for the South and another system for the North.

Abraham Lincoln said:

A house divided against itself cannot stand.

He was quoting from the Bible, of course. Thus, we cannot forever have a dual system, one for the North and one for the South, in this most important area affecting the boys and girls of the entire Nation.

Mr. HANSEN. Mr. President, will the Senator yield for one further moment?

Mr. ALLEN. I yield.

Mr. HANSEN. I should like to observe that there are a great many of us who, while not denying that at some level there may be small advantage toward broadening the opportunity for competition among school students, it has certainly not been proved—to my satisfaction, at least—that we are making the best use of our educational dollars when we spend tremendous sums busing children back and forth, having buses cross midway on their routes, hauling some children east and others west across town, and north and south across town, when we know that there is much that could be done for the schools by spending money for better facilities, for more adequate equipment, for more and better qualified teachers than they have had in the past.

I cannot believe that what has come out of the legislative and judicial actions which have brought us to the point at which we now find ourselves as we confront the fall of 1970 proves that we are making the best use of our education dollars.

I hope that we might spend more money on all the schools, but particularly on those which are the weakest in equipment, in teaching staff, and in facilities. If we could do that, if we could provide better education in each of the schools and save the money we are spending trying to achieve a sociological goal, I would think we would be serving our Nation better at this particular time.

I thank the distinguished Senator from Alabama.

Mr. ALLEN. I thank the Senator from Wyoming. I should like another moment or two to propound a question to the Senator from Wyoming. If every child were given the opportunity to go to any school in the system that he chose to go to, would not that give everyone the same opportunity? Would it not be fair and equal treatment if we were to support the principle of freedom to choose and attend the school of one's choice? Would that not impress the Senator from Wyoming as being a fair and equal application of the law?

Mr. HANSEN. As the distinguished Senator knows, I am not a lawyer. And there are many school systems I have not seen, but on its face, I can see nothing wrong with the so-called freedom of choice. It seems to me to have much merit. I think that those who inveigh against it, as nearly as I know, always try to say it really is not true freedom of choice; but I feel certain that the junior Senator from Alabama is speaking of true freedom of choice.

Mr. ALLEN. Yes, indeed.

Mr. HANSEN. With that in mind, I have no argument at all.

Mr. ALLEN. The people of Alabama ask for freedom of choice—a bona fide freedom of choice, a freedom of choice that is fairly and impartially enforced, where the school doors are open to any child.

They say that the Supreme Court has never defined the term "unitary school."

The Chief Justice takes exception to that statement and states that the Supreme Court has defined "unitary school"; that it has been defined in an opinion of the Supreme Court as a school where no child is effectively excluded by reason of his race or color. Thus, that would seem to imply to the junior Senator from Alabama that freedom of choice should comply with that type of definition of a unitary school, where no child is effectively excluded from attendance by reason of his race or color. Thus, it works both ways. It works with respect to a white child and a black child. It would enable the white child to go to a school of his choice. If he were excluded from that school by reason of his race or color, then that would not be a unitary school. The same way with a black child. If he were effectively excluded from attending that school by reason of his race or color, then that would not be a unitary school.

However, under the Supreme Court's orders, and the plans of the HEW, a white child is told where he has to go, and he must go there because of his race. The black child is told where he has to go, and he is told to go there because of his race. Thus, it occurs to met that the very plans which are being forced on the school systems of the South violate definition of a unitary school.

Mr. HANSEN. At this point, Mr. President, let me say that I can see need for the holding by school boards of authority sufficient to regulate attendance so as to make good use of all facilities within a particular school district.

Mr. ALLEN. Very definitely.

Mr. HANSEN. However, I would say that if, beyond that, freedom of choice were to be more widely extended and recognized than is the case in the situation today, then it certainly would follow that we would not find the anomalous situation to which the distinguished Senator from Alabama has referred. He speaks of children being forced to travel beyond empty schools, schools that are closed now, and are being taken much farther away from their homes in order to comply with the decisions of the Supreme Court and with the decisions of the law of the land as passed by Congress.

Most certainly this sort of situation, I should think, under a full freedom-of-choice plan would not obtain. I cannot think of very many people who would be willing to have their youngsters bused beyond one school and taken much far-

ther away to another school in order to achieve a racial balance.

Mr. President, if that does help to clear my response to the question of the distinguished Senator from Alabama, I am happy to submit it.

Mr. ALLEN. Mr. President, I appreciate the extremely valuable contribution of the Senator from Wyoming to this all-important subject.

I return now to the article published in the Nation's Business magazine, and quote District of Columbia officials further:

District of Columbia officials in a report on what has been happening in their jurisdiction: "No evidence was found that any major changes in aptitude or achievement test scores were associated with any of the . . . school programs.

In general, there was failure to recognize the intent and philosophy of the legislation.

And a harsh indictment has come in the resulting reports by the cities and states which have poured into the Office of Education. There have been comments such as:

From Nebraska officials, "Reading achievement levels of disadvantaged readers were no higher after one or two years of participating in Title I programs than achievement levels that would have been expected for the same grade levels without them."

And Florida's latest evaluation report showed the relative performance of thousands of children on language, reading and arithmetic achievement tests declined after exposure to the "benefits" of Title I."

A Parsons, Kansas, school official wrote: "Probably there has been as much good accidentally as there has been on purpose."

Minnesota education authorities said: "The most serious criticism of the projects may well be that they continue, even if in a more concentrated form or on a more individual basis, the same type of educational programs and activities that produced the educationally disadvantaged child.

And a Kansas educator said: "Projects in some schools are doing irreparable damage to the ongoing regular programs."

Said Florida officials: "The frustrations involved in this interagency planning approach were so disquieting at times that there was much question as to whether the benefits gained would offset the problems created."

And from Maine: "It appears to us that there is no necessity for legislation relating community action programs to Title I programs, since the CAP committee is not staffed to intelligently review a Title I project."

One New Jersey official: "We have just about completed approval for projects for fiscal year 1967 and yet we received, in the past week, a draft of revised rules and regulations to be used for fiscal year 1967."

Ohio officials complained: "Inadequate planning was apparent in that the evaluation format, neither in the initial stages nor in its final form, embodied a meaningful basis for evaluation."

Alaska officials blew up on 1968 evaluation procedures.

Kentucky plaintively noted it has received a copy of "Questions to be Answered by State Elementary and Secondary Education Act Title I Evaluations" in April, 1968. Then it received a second, slightly different copy. And then a third, with more variations. Which was the final copy?

"A mad rush and poor use of funds throughout projects" (Arizona). "Much duplication of time and effort at both state and local levels." (Vermont).

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, most of the above complaints relate to title I programs and expenditures, but they speak most eloquently to the point of bureaucratic ineptitude, inefficiency and incompetence of many so-called education experts in the Department of Health, Education, and Welfare. These share a responsibility for some of the near incredible school plans imposed on the South.

Mr. President, let me refer now to an article which appeared in the U.S. News & World Report in its October 13, 1969, issue. The article is entitled "Why School Busing Is In Trouble." The article is a report on a nationwide survey. It concludes that the nationwide trend is against busing as a way of integrating city schools in the North. The reasons are many and compelling. Situations are described in Chicago, Minneapolis, Los Angeles, Boston, and other areas of the Nation.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without ojection, it is so ordered.

(See exhibit 2.)

Mr. ALLEN. Mr. President, I could continue citing similar material to further illustrate the costly failure of efforts throughout the Nation. We have cited this material merely to illustrate the nationwide scope of the problem and to suggest the incompetency of those in whose hands the problem has been placed.

ORIGIN AND CHRONOLOGICAL DEVELOPMENT OF PROBLEM

Mr. President, I should now like to discuss the origin and the chronological development of this problem with respect to the desegregation of public schools in the South and, if there is to be any in the North, then in the North, too.

The chaotic public school situation in the South and throughout the Nation did not just happen. It has its origin in departures from fundamental principles of constitutional government. The problems have been compounded by nearly unbelievable incompetence of Federal bureaucrats in trying to implement what Francis Keppel expressed in the title of his book "The Necessary Revolution in American Education."

Mr. President, I think it is extremely important to explore the origin and development of these problems. Let us get to the root of it. We will skip over the original 1954 Brown decision. Few, if any, believe that this decision could be reversed without a constitutional amendment, and I know of no one who believes that such an amendment could be adopted at this time. In the South, the original Brown decision was reluctantly accepted.

All States with statutory laws requiring segregation in schools repealed them. In some Southern States segregation was provided for in State constitutions. These also were stricken by constitutional amendments freely and voluntarily approved by the people.

So, de jure segregation, segregation said to be imposed by law, came to an end in the South within a reasonable time after the original Brown decision.

But the second Brown decision did more than strike down segregation de jure. The second Brown decision said that previously segregated school systems, although constitutional and proper prior to Brown I—I refer to the 1954 Brown case as "Brown I" and to the subsequent Brown case as "Brown II"—would have to be reformed and altered. The Supreme Court imposed an affirmative duty on local school authorities to do the job.

Herein, Mr. President, lies the root of the problem. Here is the original departure from law and reason which has proven the source of many problems. First, the idea that the nonrepresentative, nonelected branch of the Federal Government could properly employ judicial powers to enforce monumental social reforms affecting the lives and welfare of millions of parents, schoolchildren, and elected school officials is nothing short of revolutionary.

It is difficult to imagine a more revolutionary or a more tyrannical idea. It has corrupted the Constitution and along with it fundamental concepts of equity and justice. This we will demonstrate in just a moment. But, first, let us examine the method by which the Supreme Court sought to implement its idea of social reform by judicial decree. That is what this is—social reform rather than educational reform. The method of implementation has compounded the problem a hundredfold.

Justice Black has given a fair summary of the method of implementation adopted by the Court. He said:

After careful consideration of the many viewpoints . . . we announced our decision in Brown II, 349 U.S. 294 (1955).

That was the year after the original Brown case.

At this point, Mr. President, I will list in numerical sequence precisely what the Court held—in the words of Justice Black:

1. We—

The Supreme Court—

held that the primary responsibility for abolishing the system of segregated schools would rest with the local school authorities.

Justice Black continued:

We were not content, however, to leave this task in the unsupervised hands of local school authorities. . . .

2. The problem of delays by local school authorities . . . was therefore to be the responsibility of courts, local courts so far as practical . . .

3. Those courts to be guided by traditional equitable flexibility to shape remedies . . .

Mr. President, it staggers the imagination to consider that that Court devoted 4 days to the argument on this single problem of implementation and yet came up with something so impractical. For example, an undisputed fact is that local school authorities did not have and never had the power to carry out the court imposed responsibility to dismantle the institutional structure of public education incorporating segregated schools.

Local school authorities cannot alone establish a "unitary school system"—whatever that term may mean. The school system was imposed by State legislatures—by the law of the Constitution, and by State statutes.

It is simply incredible that the Court should have felt no responsibility to better inform itself as to powers of local school authorities. They should have known that schools are operated under voluminous school codes enacted by State legislatures. Local school authorities are not autonomous sovereign bodies with power to enact their own laws. Their powers are derived from State legislatures. The powers so conferred are executive in nature and not legislative. Local boards of education are not empowered to spend school funds as they see fit. School revenues are appropriated and are budgeted. State support is earmarked by legislature by object and by purpose. In most school districts in the South a far larger portion of school operating revenues are provided by State legislatures than by local governmental bodies.

School boards cannot levy taxes—they cannot use proceeds of taxation which are earmarked for retirement of bond issues or for payment of teachers salaries or to purchase buses. In most States, procedures for school closings, consolidations, and resulting transfer of pupils and teachers are prescribed by State statute. State enacted teacher tenure laws strictly govern assignment and transfer of teachers.

Under the circumstances, Mr. President, how in the name of commonsense could the Supreme Court have imagined that local school authorities could reform the public schools? Is it to be imagined that these things could be done without money? Is it imagined that local school authorities can levy taxes?

I doubt that members of the Supreme Court or anybody else for that matter had a clear idea of the extent to which the Court would eventually go in pushing its reforms. Nevertheless, State legislators at the time, and I was one of them, reasoned that law does not require the impossible and that all that local school authorities could do within the realm of possibility was to administer fairly and impartially a system of pupil placement which permitted parents an opportunity to choose the school their child should attend.

Certainly, this reasonable appraisal of the possible was supported by the first definitive interpretation of the Supreme Court Brown decision, one of the original suits on remand to the district court.

In *Briggs* v. *Elliott* (132 F. Supp. 776) the Court said, and this is no longer the law of the land but I am pointing it out as part of the evolution or transition from one position to another by the Federal courts:

1. "It (the Supreme Court) has not decided that the federal courts are to take over the regulation of the public schools of the state.

2. "It has not decided that the states must mix persons of different races in the schools or must require them to attend schools, or must deprive them of the right of choosing the schools they attend.

3. "What it has decided, and all that it has decided, is that a state may not deny to any person on account of race the right to attend any school that it maintains—but, if the schools which it maintains are open to children of all races, no violation of the constitution is involved *even though the children of different races voluntarily attend different schools,* as they attend churches. (Emhasis supplied.)

4. "Nothing in the constitution or in the decision of the Supreme Court takes away from the people *freedom to choose* the schools they attend. *The constitution in other words does not require integration. It merely forbids discrimination.* It does not forbid such segregation as occurs as the result of *voluntary* action. It merely forbids the use of governmental power to enforce segregation." (Emphasis supplied.)

Mr. President, the Supreme Court denied certiorari and consequently the above interpretation was widely accepted by constitutional authorities as guidelines for State legislatures. Nine Southern States adopted the principle of freedom of choice and pupil placement laws as logical steps toward compliance with Supreme Court decisions in the Brown case, showing an attitude on the part of the Southern States to comply with what the Supreme Court said the law was. As I will point out later the Supreme Court has not decided many of the questions that are causing so much of the chaos. They need to come back from their 3-month recess, which they take every year, and decide some of these questions. There has been a time when the junior Senator from Alabama would have felt that possibly a 12-month-per-year recess for the Supreme Court would have been in the best interests of this country, but with so many questions before the Court on appeal to the Court, so many questions to be decided, it seems that it is the duty of the members of the Supreme Court to come back from their recess and decide these questions and set in order the public school system of the Nation, to the chaos in which they have had such a part.

Mr. President, as late as 1963 Federal courts upheld freedom of choice and pupil placement laws, and Federal courts have avoided holding that State constitutional provisions which protect the right of parents to freedom of choice are outlawed by the 14th amendment.

On the other hand, Federal courts, including the Supreme Court, have taken the position that freedom of choice, while not unconstitutional, is permissible only if parents choose schools so as to meet an unspecified racial mix as may be prescribed by various Federal courts.

They have not ruled that freedom of choice is unconstitutional. They have held that since the application of the freedom-of-choice rule and policy did not result in the required but unspecified racial mix, the freedom of choice plan would be stricken down—not because it was freedom of choice, but because it did not provide the type and degree of racial mix that the Supreme Court seemed to think it should have. But at that time they should have taken the opportunity to point out what is the racial mix that is required to meet their views as to what is necessary to desegregate the public schools.

The Supreme Court allows the district courts and the courts of appeal all over the country to come up with different interpretations, different rules, and does nothing to advise the lower courts of what the law is. I hazard the opinion that the Supreme Court has the law with respect to desegregation of public schools in such a state of confusion that not only does a school board official or a teacher or school administrator, and not only do the district courts and the courts of appeal, not know what the law is, but that the Supreme Court itself does not know what the law is. If it does know, it is high time it is imparting that information to the people of this country, because it has been 16 years since the Brown decision.

Chief Justice Burger points out three areas in which the Supreme Court has not ruled. I hope I get to that point before my time is up.

Mr. President, I submit that the Brown II decision was a grave and almost incomprehensible mistake. The method of implementation prescribed was divorced from practical, down-to-earth realities. It had no relation to the factual situation as it existed then or as it exists today. Reason and rationality are the essence of law. Without these attributes a statute or decree can be put into effect only by resort to force—sheer, brutal, naked force.

That, Mr. President, is precisely what the Supreme Court authorized when it invited district courts to preside over local boards of education and to fashion remedies under equitable powers of Federal courts.

For 5 years U.S. district courts and State and local school authorities wrestled with the problem of trying to find out what the Supreme Court would require. The Supreme Court satisfied itself with a case-by-case process and expounded on the meaning of "deliberate speed"; it considered State pupil placement laws; it passed on pupil transfer provisions; it considered questions concerning administrative remedies, freedom of choice, and similar questions. Throughout this time the Supreme Court permitted conflicting and contradictory U.S. district court opinions to stand and refused to address itself to the resolution of these conflicts. Then in 1960, United Nations Educational, Scientific, and Cultural Organization entered the picture. In December 1960 it adopted a "Convention on Discrimination in Education," and an almost identical document entitled "Recommendation on Discrimination in Education." Congress would have had to approve a "convention" but the Executive could agree to implement the "recommendation," the provisions of which differ only slightly from the provisions in the formal "convention."

Mr. President, I request unanimous consent that the texts of these documents be printed in the RECORD in the Extensions of Remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibits 3 and 4.)

Mr. ALLEN. These agreements and conventions are interesting as an indication of how far their provisions have been implemented in the United States by executive and judicial decrees and to

what extent they have been implemented by actions of Congress. The texts are also interesting because they raise very profound constitutional questions extraneous to immediate problems in public school education.

Mr. President, from the time of the acceptance by the United States of "Recommendations on Discrimination in Education," our Nation has undergone a continuous revolution in public school education dimly outlined in "The Necessary Revolution of American Education" by Francis Keppel, who was Commissioner of Education in 1962 under President Kennedy, and primarily responsible for implementing the "Agreement."

As the Keppel revolution gathered steam some of the major foundations in our Nation helped finance a gigantic propaganda program aimed at the enactment of the Civil Rights Act of 1964. This act ushered in a new era of litigation. It opened new legal questions and it provided the opportunity for the U.S. Supreme Court to demonstrate once again an incapability to face up to necessary constitutional questions which had to be determined and which remain to be determined.

The failures of the U.S. Supreme Court from the enactment of the 1964 Civil Rights Act can be traced to refusal to decide whether or not the Constitution of the United States requires racial balance in public schools.

Mr. President, this is the issue central to and controlling all others. Those nine men, sitting in the marbled mausoleum across the way, are primarily responsible for the disastrous and tragic school plans imposed upon the public schools in the South by reason of their failure to decide this vital issue.

Innumerable U.S. district court judges have complained, and rightfully so, of the inability to determine what the Supreme Court means in the use of a multitude of new and vague terms employed by the Court dating from enactment of the Civil Rights Act of 1964.

For example, as late as December 30, 1969, the U.S. district court judge who presided in the important case entitled "Beckett and Others Against the School Board of the City of Norfolk," decided December 30, 1969, complained that such terms as "desegregation," "intergration," "unitary system," nondiscriminatory," and others have not been defined by the Supreme Court. Neither have such terms as "discrimination," "racial ratios," "root and branch"—where they said segregation has to be destroyed root and branch—and "racial balance." But the most important of these is racial balance.

When the Supreme Court decides the question of racial balance in public schools, the importance of other definitions will disappear. If racial balance is required by the Constitution of the United States then the entire issue can be consigned to computers and the means of achieving racial balance are of secondary importance.

But if the Supreme Court decides that racial balance is required it will also have decided that parents no longer have a right superior to that of the State to decide the type of education their children shall receive and that parents shall no longer have a voice in the choice of schools their children shall attend.

If the Constitution requires racial balance in public schools, than parents will have been denied the human rights of parental supervision and control of their own children in matters affecting their health, safety, welfare, and moral training.

On the other hand, if racial balance in public schools is not required by the Constitution, then and only then are definitions of "desegregation," "unitary school" and similar words and phrases of importance.

On the problems of definitions, it is worthy of note that the Supreme Court and the Department of Justice and the Department of Health, Education, and Welfare refuse to accept definitions already provided by Congress.

In addition, the U.S. Supreme Court, the Department of Health, Education, and Welfare, and the Department of Justice have failed to accept the definition and judgments respecting racial balance provided by the United Nation's agencies and instrumentalities.

For example, the International Commission of Jurists in a special 1965 report based on a study of racial discrimination in British New Guinea, defined the terms "racial discrimination" and "racial imbalance." No one will question the liberal credentials of the International Commission of Jurists whose study of the problem was undertaken at the request of the Government of New Guinea.

Mr. President, I want to call attention to the following definitions and discussion excerpted from the above report.

> The term "imbalance" implies some departure from a standard or norm and presumably, . . . its obverse, "balance" should imply conformity with such a standard or norm. Part of the difficulty surrounding an inquiry of this nature will inevitably center around the determination of such norms.

Let me call special attention to the following excerpts:

> The term "imbalance" implies the existence or possible existence of a balance which amounts to a fixed criterion of participation of the different racial groups in the fields concerned . . . such criterion is proportional to the numerical strength of the various racial groups.
>
> *We are of the opinion that it is neither possible nor desirable to fix such an absolute standard of racial participation. It is not required by the existing constitution of British Guiana or by international law.* (emphasis added)
>
> We are convinced that any attempt to fix an absolute standard of racial participation in the public services would lead to arbitrary procedures which would, in the long run, retard racial harmony in the community. . . .
>
> We do not consider that such disproportionate participation is in itself undesirable; but it is necessary to give full weight to the existence or non-existence of such a fact in determining whether or not racial discrimination exists.

Mr. President, despite the laws of Congress on this subject and despite the authoritative opinion of international authority, the Supreme Court of the United States has taken precisely the opposite view as it relates to teachers. This, too, has contributed to the present mess and uncertainties in the public school system.

On June 2, 1969, the Supreme Court handed down a ruling in a Montgomery, Ala., school case relating to assignment of public school teachers. The Supreme Court rejected a "substantial or approximate" participation in favor of an arbitrary ratio.

However, in what has become a characteristic of the Supreme Court opinions, the Court did not rule that "racial balance" is required by the U.S. Constitution. Instead, the opinion held, in its necessary effect, that any deviation from racial balance is unconstitutional.

The implications of the principle extend to all public services and could eventually affect all public employees in every aspect of public service without regard to qualifications, merit, tenure, and other valid standards. It is a landmark decision. For if it is a valid principle as applied to teacher assignments, it is also valid as applied to pupil assignments.

Mr. President, I have previously commented on this decision in greater detail, and I request unanimous consent that my remarks which appeared in the CONGRESSIONAL RECORD of June 17, 1969, be printed in the appendix to these remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 5.)

Mr. ALLEN. Let it be said to the credit of Chief Justice Burger, however, that he does not consider the racial balance question decided. The following statement by Chief Justice Burger seems to indicate that he recognizes that the racial balance question must be decided before other related questions can be answered. This is what he says in his opinion:

> As soon as possible, however, we ought to resolve some of the basic practical problems when they are appropriately presented including whether, as a *constitutional matter, any particular racial balance must be achieved in the schools;* to what extent school districts and zones may or must be altered as a constitutional matter; and to what extent transportation——

In other words, busing—

> may or must be provided to achieve the ends sought by prior holdings of the Court. (Emphasis supplied).

These are the three things that he says have not been decided and ought to be decided. In other words, the Chief Justice of the United States is saying that the Supreme Court, after 16 years of fumbling with this most important question, still has not decided these three most important questions: Whether any particular racial balance must be achieved in the schools, to what extent school districts and zones may or must be altered as a constitutional matter, and to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the court.

Yet we find the district courts and circuit courts of appeals approving and implementing plans of HEW, or devising plans of their own, putting into effect all three of these procedures, not one of which has been ruled on by the Su-

preme Court, according to the Chief Justice himself. So these matters need clarification.

Mr. President, the distinguished national columnist, David Lawrence, in an article appearing in the U.S. News & World Report, August 31, 1970, has presented a compelling argument why U.S. Supreme Court clarifications are needed. I request unanimous consent that his article entitled "Clarification Needed" be printed in the appendix to these remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 6.)

Mr. ALLEN. In the interest of further illustration of the point of clarification, I request unanimous consent that my remarks on the subject which appeared in the CONGRESSIONAL RECORD of August 25, 1970, be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 7.)

Mr. ALLEN. I further request unanimous consent that an article entitled "Do Most Americans Secretly Want Segregation?" by the distinguished Senator from Connecticut (Mr. RIBICOFF) which appeared in Look magazine dated September 8, 1970; and the Washington Post, August 29, 1970, editorial entitled "Desegregation: Waiting on the Court" be printed in the appendix to my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibits 8 and 9.)

Mr. ALLEN. I also ask unanimous consent that a résumé dated August 6, 1970, prepared by me entitled "The Fight To Return Public Schools to State and Local Control" be printed in the RECORD as an appendix to my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 10.)

Mr. ALLEN. Mr. President, the Fourth Circuit Court of Appeals has announced a "rule of reasonableness" in carrying into effect the desegregation policies required by the Supreme Court. The case in which that rule was announced is before the Supreme Court. If that "rule of reasonableness" is adopted, it could be the answer to this problem.

We find the Justices on vacation until October, and schools opening all over the country. Some schools are opening in Alabama today, and others are opening next week, some already having opened.

The Supreme Court has it within its power to announce rules of law that would help clear up and clean up the mess and confusion that have been caused in the public schools of the South by their own decisions and their failure to clarify those decisions.

Supreme Court Justices are appointed for life. I might say parenthetically that I believe the district court judges ought to be elected. The courts of appeals judges ought to be appointed for stated terms. The Justices receive compensation of $60,000 per year. They are able to retire at $60,000 per year after not having paid 1 cent into any retirement fund. Yet, they take each year a 3-month vacation, regardless of the chaos in which our public schools find themselves. I believe it is the responsibility of the Supreme Court to come back into session and decide these matters, these cases, these principles that are pending before them.

EXECUTIVE DEPARTMENT

All the blame for the present school situation does not rest upon the Supreme Court. The executive branch of the Government shares a large measure of responsibility for existing chaos in our public schools. In speaking of the executive department, I refer more specifically to the Department of Health, Education, and Welfare and to the Department of Justice. These agencies of the executive branch have simply taken the bit in their teeth and are beyond control of Congress as expressed in existing statutes and restraints.

In this connection, the laws of Congress are treated with contempt. The following is a partial list of specific statutory provisions of law which these agencies have consistently and persistently violated:

Sec. 401 (b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

Congress said further:

Sec. 407 (a) (2) . . . nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to assure compliance with constitutional standards.

Even later, Congress said in Public Law 89–750, section 181—1966:

Nothing contained in this Act shall be construed to authorize any department, agency, officer or employee of the United States . . . to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

And still later, in 1969, Congress said:

No part of the funds contained in this act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance.

In addition, I could cite provisions of various statutes authorizing Federal assistance to public education which specifically deny the Executive the power to prescribe employment practices of any educational institution. In addition, such a provision is contained in the 1964 Civil Rights Act. We could also refer to the provision of the 1964 Civil Rights Act relating to the authority of the Department of Health, Education, and Welfare to withhold or cut off funds authorized by Congress for the benefit of school children. This provision of the law has been and continues to be flagrantly violated by the Department of Health, Education, and Welfare.

To further illustrate the damage done by these merchants of rule or ruin, I want to cite two examples of their work. I refer specifically to the school plans prepared by so-called experts of the Department of Health, Education, and Welfare in Choctaw County, Ala., and Mobile County, Ala.

The Choctaw County school plan is celebrated in Alabama as the "Case of a Confused Education Expert." This individual was employed by the Department of Health, Education, and Welfare to prepare a comprehensive school plan for the Choctaw County, Ala., school system. The plan was prepared for submission to a U.S. district court judge as the work of an expert.

The individual was so confused that he referred to Choctaw County, Ala., in one place in the plan, as being located in Louisiana and at another place in the plan Choctaw County, Ala., was located in Mississippi. He spent all of a single day in preparation of an in-depth study of education needs and problems in Choctaw County. However, he failed to contact any school official in the county and made whirlwind, windshield inspection of public school facilities in the county.

The school plan submitted to the court was as disoriented as the education "expert" who prepared it. The plan proposed what amounted to destruction of the public school system in Choctaw County. I have commented on this case previously in greater detail in remarks which appeared in the RECORD of October 14, 1969. To further illustrate the point of bureaucratic incompetency and inefficiency, I request unanimous consent that my previous remarks on the Choctaw County case be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 11.)

Mr. ALLEN. Many of the same criticisms can be applied to the Mobile, Ala., school system plan prepared by so-called experts in the employ of the Department of Health, Education, and Welfare. An editorial in the highly respected Mobile Register makes the point better than I can. The editorial expresses the judgment that:

HEW's "plan" for the public school system of Mobile County is in reality a formula for the destruction of the system of public education in this county. It is a brutal bureaucratic atrocity of which no responsible agency of government would be guilty.

For the first time in American history, an instrumentality of government in Washington, D.C., has gone so stark wild that it openly calls for violation of federal law to destroy a public school system.

Its ruthless, reckless, destructive, law-defying scheme would virtually reduce the system of public education in this county to a daily clutter of pupil-hauling buses operated as one segment of the bankruptcy-producing expenditures to which the school system would be subjected as an inevitable necessity to compliance.

What travesty, what mockery, what hypocrisy, what outrage perpetrated against the public intelligence . . . (by the action of) HEW.

I have since learned that the above two examples are not isolated or exceptional cases. It is common practice for HEW educational experts to draw up school plans based on the single criterion of

racial balance. In view of the fact that the cases I have described are typical, I request unanimous consent that my remarks on the Mobile County school situation which appeared in the RECORD of July 22, 1969, be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 12.)

Mr. ALLEN. I continue to level criticisms at the Department of Justice and the Department of Health, Education, and Welfare, but this does not improve the qualifications of their experts or alter their built-in preconceptions of law. I have previously mentioned that these departments willfully and wantonly disregard the law, so criticism is not likely to accomplish what must be done. Congress has permitted these agencies to get by with their lawless action. Federal courts have condoned and encouraged them.

It has reached the point where the people of this Nation will have to assert the ultimate sovereignty which is theirs and demand corrective actions. The people are already aroused. They need only to be informed of the extent to which their constitutional liberties are being trammeled on by the executive branch of Federal Government. In the interest of informing the people, I want to devote the next few minutes to outline some of the constitutional liberties which are being sacrificed on the alter of disciplines of rule or ruin in the public schools of this Nation.

CONSTITUTIONAL QUESTIONS

A legislative solution to the problems presented to this point cannot be provided until we fully understand the magnitude of the departures from constitutional law reflected in current problems created by the Federal judiciary and by the Federal executive.

Most, if not all, of the departures relate to the traditional protections of our liberties provided by the due process clause of article V of our Constitution.

It is unquestioned that due process of law is a limitation on the powers and on the means employed by the Congress, the executive and the U.S. courts in the creation of statutes and in their administration.

The violations of which I shall speak are both procedural and substantive. Both have the effect of curbing liberties granted and guaranteed by the Constitution. Executive department agreements with international agencies designed to reform domestic institutions in our Nation are not consistent with constitutional procedures demanded by due process of law.

Delegation of legislative powers of Congress to the executive without precise limitations on the power delegated violate procedural due process of law. In this regard the 1964 Civil Rights Act violates due process of law and has become the source of limitless evils and innumerable problems. For one thing, it has permitted the executive department to become judge of its own powers in matters vitally affecting the health, safety, morals, welfare, and cultural training of schoolchildren.

For another thing, it has permitted the executive department to create "dual standards" in the administration of laws so that provisions of the Civil Rights Act can be utterly disregarded in one section of the Nation and enforced by arbitrary and unreasonable means in another section of the Nation.

It establishes the proposition that provisions of the Constitution of the United States mean one thing as applied to one section of the Nation and something entirely different as applied in other sections of the Nation. The de facto-de jure distinctions are the result of special pleaders in the Department of Health, Education, and Welfare. The distinction is mythical, fictitious, and invidious. The distinctions violate procedural and substantive due process of law.

The asserted power in the executive department to close and order the abandonment of school buildings and other facilities violates due process of law. These facilities were constructed from the proceeds of the sale of bonds. Taxes are earmarked for payment of these bonds. Payment is guaranteed by statute and by contract. Outstanding bonded indebtedness remains. Closing of such schools on order of the Federal courts or the Federal executive is equivalent to condemnation of this property. It is equivalent to taking property of citizens represented by payment of taxes earmarked for payment of bonded indebtedness without a scintilla of due process of law. More specifically, such procedures are contrary to due process provisions of article V of the Constitution.

Teacher tenure rights which have become vested by law are abrogated by procedures which compel transfer and assignment of teachers contrary to their vested right of tenure. This, too, violates article V of the Constitution.

The arbitrary compulsion of teachers to teach only in certain schools and localities abridges the constitutionally protected right of freedom to contract. This procedure also violates property rights traditionally recognized and protected by article V of the Constitution.

The administrative regulations by which private schools are denied a tax exempt status has the effect of amending, modifying, and in some respects repealing laws of Congress. This violates procedural due process of law.

The administrative regulation to deny deductibility of contributions to private schools for income tax purposes violates procedural due process of law. In addition, it abrogates the right of an individual to choose the object of his benevolence, and in this respect violates the first amendment right of freedom of association.

Any effort by Congress or the executive to impede by tax penalty the right of freedom of association has profound implications for church related schools.

Church related schools no less than segregated schools involve first amendment rights and any principle established by the executive for one has implications for the others.

Administrative and judicial enforcement procedures which rely on rule by mandatory injunction and enforcement by means of contempt of court proceedings and the threat of confiscatory fines and imprisonment of elected public officials violate due process of law.

In this instance, the rights abrogated are rights originating in the Magna Carta and continued in precedent dating from A.D. 1215.

The departure from this due process protection has profound implications for organized labor.

Organized labor has fought this battle before, and it is doubtful that they will accept the proposition embraced in rule by injunction as it is applied to their children and to their public schools.

Enforcement procedures which involve the deprivation of innocent children of goods and services authorized and funded by Congress violate substantive and procedural due process of law. It is worth observing that when the Department of HEW requests funding, they speak of the needs of children. When they speak of depriving children of these funds, they speak of school districts and administrators. In other words, the funds are requested for children, but procedures for deprivation involve administrators of the funds. There is no semblance of due process of law where the persons involved who suffer deprivation are provided no opportunity for a hearing even to plead for mercy. School administrators and school districts do not eat school lunches nor use the services Congress has provided for schoolchildren.

Administration procedures to combine legislative, executive, and judicial powers in a single agency of Government constitute depotism by the accepted definition of the term. Congress cannot authorize such procedures because it has no power to do so. The Supreme Court cannot legislate such procedures because it, too, is limited by the constitutional protection of the people provided for in the due process clause of article V of the Constitution.

These are but a few of many additional violations of the Constitution which have resulted primarily from accepting international agreements and obligations as law superior to the law of our Constitution, and they result from the enactment of the 1964 Civil Rights Act, which conforms in almost every particular to provisions of UNESCO's "Recommendation on Discrimination in Education."

If problems have arisen as a result of the 1964 Civil Rights Act, enacted under authority of the 14th amendment, it necessarily follows that Congress has the power and the responsibility to correct the problems so created.

Let us next consider the possibilities for legislative redress.

CONGRESSIONAL REDRESS

The question arises as to the legal and moral responsibility of Congress to help resolve some of the major problems which I have previously mentioned. Will Congress realistically accept the responsibility in this matter or will it continue to pass the buck to the executive and to the Federal judiciary?

I think Congress has a duty to help resolve these problems.

No one can seriously question the power of Congress to correct inequities and injustices and departures from the law which stem directly from enactment of the 1964 Civil Rights Act.

Section 5 of the 14th amendment provides:

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

If this provision authorizes Congress to enact the Civil Rights Act, it likewise authorizes Congress to enact legislation more clearly and definitely defining the rights to be protected under the 14th amendment. Particular attention should be given to rights supposed to be protected by the equal protection and due process clauses of the 14th amendment.

It is true that Congress has defined the term "desegregation." It is also true that Congress has time and again made clear its intention with respect to the issue of racial balance. Time and again, Congress has expressed itself on this last point.

Nevertheless, the executive branch of Government and Federal courts have disregarded the law and the often repeated expression of legislative intent on the subject of racial balance.

Under the circumstances, it seems clear to me that Congress must establish a national policy with respect to the concept of racial balance.

I have previously proposed legislation by means of an amendment to the appropriations bill for the Department of HEW that we establish "freedom of choice" of parents to choose the schools their children shall attend as an inviolate right protected by the Constitution of the United States. The amendment provides:

> It is hereby declared to be the sense of Congress that the freedom of choice of parents to choose the public primary and secondary schools to which they shall send their children (subject to age, academic, and residence requirements) is an inviolate right, the protection and maintenance of which is part of the public policy of the United States.

Because of the past record of deliberate disregard of limitations placed upon the Department of HEW, it would seem necessary that Congress provide for penal sanctions applicable to officers and administrators in the Department of Justice and in the Department of HEW, and others who act under color of law in clear violation of specific limitations on their powers.

If members of the executive department and other branches of the Federal Government refuse to be bound by the laws enacted by Congress, it would seem clear to me that penal sanction should be imposed on the one hand, and that members of the Federal judiciary should be reminded of the power in the House of Representatives to impeach and the power in the Senate to try the issue raised by impeachment.

It is extremely hard for me to reconcile palpable abridgements of constitutionally protected rights with "good behavior" on the part of Federal judges.

Let me conclude my remarks with these observations. We have reached a point when the very legitimacy of the Supreme Court and the Federal judicial system is seriously questioned by a majority of the people in the United States.

There is a parallel here from the standpoint of judicial authority with the situation following the Dred Scott decision. Let me quote from a recent issue of the Boston University Law Review:

> Dred Scott was seen to rest ultimately upon the authority of the Court's decision. It would appear that Professor Bickel is correct in asserting that authority is, in the final analysis, the basis of the Court's competence, although force and power may serve to provide the short-term acceptance of the decision.

There is also a parallel between present trends in constitutional law with trends in the development of German law which led to the tyranny of the National Socialist State under dictatorship of the Nazi Party. On this point let me quote from the same source, the Boston University Law Review:

> This conception of law and its validity (we call it the positivist theory) made the (German) lawyers as well as the people defenseless against the most arbitrary, the most horrible, the most criminal laws. It places in the last analysis law equal to power; only where power is, is there law.

I am deeply concerned—and every Member of the Senate should be deeply concerned—by trends manifested in the proposition that the end justifies the means. In this regard, let me quote the observation of the Honorable Bryce Baggett, a State senator in Oklahoma, published by the Educational Commission of the States in the October 1969, issue containing an article entitled "Confrontation on Campus." Senator Baggett said:

> I deplore the concept that the end justifies the means. It is not so important where we are going, but how we are getting there. The processes of democracy are shaped on this premise. Goals are not as important as the means by which these goals are attained. Perfect justice does not exist, but due process of law does exist.

Let me also commend to the consideration of my colleagues, the observations of Robert A. Nisbet on the subject of limitations of the power.

In an article published in the Washington Post May 18, 1969, Nisbet had this to say:

> The most striking fact in the present period of revolutionary change is the quickened erosion of the traditional institutional authorities that for nearly a millennium have been Western man's principal sources of order and liberty. I am referring to the manifest decline of influence of the legal system, the church, family, local community and, most recently and perhaps most ominously, of school and the university. . . . Throughout human history, when the traditional authorities have been in dissolution, or have seemed to be, it is power—in the sense of naked coercion—that has sprung up.

Our Nation is involved in a crisis. The people are fed up with arbitrary government. Millions of schoolchildren, white and black, are seriously affected by the lawless irresponsibility of the Federal and judicial branches of Federal Government, and they are completely fed up with the failure of Congress to face up to its responsibilities to help correct the problems in our public school system.

Time and again we hear the charge that the ultraliberal coalition in Congress has permitted the cause of political expediency to rule over the dictates of reason and justice. The people are fed up with those who play politics with their children. The time of reckoning is at hand. The people have been forced against the wall. They have but two alternatives. They may bow to the superior power of Government, or they can rebel and "throw the rascals out."

On our part, we can and we should call upon the Supreme Court to come back from its vacation and address itself to the problems affecting millions of schoolchildren throughout this Nation.

In the words of John Donne:

> Never seek to know for whom the bell tolls; it tolls for thee.

These procedures and practices, if continued to be applied in the South today, are the same procedures and practices which will be applied in States outside of the South tomorrow.

The school bell that tolls throughout the South today, tolls for thee.

EXHIBIT 1

THE CURSE OF CRASH EDUCATION

(By R. C. Orem)

If reports from states and cities are a bench mark, the federal government's multi-billion dollar campaign to sharply improve education for the children of the city ghetto and the rural poverty pocket needs vast overhauling.

It's a noble idea that has bogged down in a mass of waste and haste.

"Programs have been piecemeal fragmentary and ill-planned," complained Texas education officials in reviewing the spending of $200 million for the educationally deprived in their state from 1966 to 1968.

"Objectives have been piecemeal, fragmentary and ill-planned . . . duplications of effort are being exerted by local, state and federal funding agencies without attempt at coordination."

Commented District of Columbia officials in a report on what has been happening in their jurisdiction: "No evidence was found that any major changes in aptitude or achievement test scores were associated with any of the . . . school programs."

And New York officials said: "In general, there was failure to recognize the intent and philosophy of the legislation."

Authorization to meet "the special educational needs of educationally deprived children" under Title I of the Elementary and Secondary Education Act is the cornerstone of the vast project they were talking about.

Lyndon Johnson, who signed the Act in a one-room Texas schoolhouse on April 11, 1965, hailed it as the "most creative legislation passed by Congress since I came to Washington."

A former teacher himself, President Johnson hoped schools would become institutions for social change in his Great Society, helping to eliminate poverty and aiding the disadvantaged.

Zipped through Congress in three months the Act was the first great federal foray into public and private elementary education.

THREE BILLION DOLLARS SO FAR

Few people question the wisdom of investing more money in aid of American education, especially for programs aimed at the disadvantaged. But many now are questioning the quality of the job being done with a vast sum—nearly $3 billion so far.

Educators have complained bitterly about going ahead with a crash program, ill-thought out and patchwork-implemented.

With extension of the Act now before

Congress, many cry for a hard look at what has or has not been accomplished, and for some better administration.

What really has been accomplished is hard to pinpoint.

The Act called for unprecedented evaluation of poverty education programs by states, cities, the Office of Education and the National Advisory Council on Education.

And a harsh indictment has come in the resulting reports by the cities and states which have poured into the Office of Education. There have been comments such as:

"Reading achievement levels of disadvantaged readers were no higher after one or two years of participating in Title I programs than achievement levels that would have been expected for the same grade levels without them." (From Nebraska officials.)

"Generally speaking, the results were not what had been anticipated. . . . In isolated cases significant gains were obtained but in the large majority, changes were not significant. In some cases post-test results were even found to be significant in the wrong direction." (From Pontiac, Mich.)

"One problem is that Title I programs have created a 'brain drain' from the classroom. Too often one of the most capable teachers is named project coordinator or cultural coordinator. Thus, when an excellent teacher is removed from the classroom, the good that he does in Title I is offset by the less effective work then being done in the classroom he left." (From Newark, N.J.)

AIDING THE WRONG STUDENTS

The National Advisory Council criticized the program for failure "to identify and attract the most seriously disadvantaged children" while in the continuing confusion huge numbers of nondeprived students have been enrolled.

In one school system alone, it reported, "almost seven and a half times more children (over 300,000) were enrolled in Title I activities than were listed as eligible."

More than half of all Title I funds are spent for instructional activities, largely remedial reading. But these reading efforts, costing an estimated $1 billion over three years, often have been a parody of sound educational practice and may have had as much negative as positive effect.

Nebraska officials reported: "Most schools used an elementary teacher with no special remedial training as their remedial reading teacher."

And Florida's latest evaluation report showed the relative performance of thousands of children on language, reading and arithmetic achievement tests declined after exposure to the "benefits" of Title I.

Of approximately 15,000 Florida third graders who took the Stanford Achievement Test, those scoring in the lowest quartile in reading increased from 44 per cent to 67 per cent, while those scoring in the highest quartile decreased from 18 per cent to 6 per cent.

These funds for the educationally deprived also finance schools for unwed mothers, welfare services, recreation and a potpourri of other regular and summer term projects.

A FAR-AFIELD TRIP

Field trips have ranged from a visit at the New York Giants professional football camp to a 28-day tour of the United States by a group of students from Idaho. "Consultants" have been hired from as far away as Leicestershire, England.

During the first year of the Act alone, more than $200 million was spent for equipment and materials, much of which could not be delivered by swamped producers until after programs had ended. Reported Kansas officials:

"Without materials and specialized equipment the programs could not function as planned. . . . Some programs were practically unrecognizable when the state agency consultant made site visitations. Teachers had to improvise until the material arrived and in many instances the arrival was after the close of school."

A shortage of space and facilities has further crippled Title I programs. And despite critical construction needs of local school systems, the Office of Education has discouraged construction with these funds. Consequently, as Illinois authorities reported, "Title I activities . . . often forced . . . other classes into makeshift spaces such as Quonset huts, closets, engineering rooms."

The negative effects of Title I, tragically, have probably nullified whatever desirable results did occur. A Parsons, Kans., school official wrote: "Probably there has been as much good accidentally as there has been on purpose."

Minnesota education authorities said: "The most serious criticism of the projects may well be that they continue, even if in a more concentrated form or on a more individual basis, the same type of educational programs and activities that produced the educationally disadvantaged child."

And a Kansas educator said: "Projects in some schools are doing irreparable damage to the ongoing regular programs."

A Title I provision that is causing consternation—and in some states, legal suits—has local educational agencies provide opportunities for participation of parochial and other nonpublic school children "to the extent consistent with the number of educationally deprived children who are enrolled in private elementary and secondary schools."

WOBBLY GUIDELINES

Both public and nonpublic educators have been confused by regulations and guidelines on this section.

But this confusion is negligible when compared to that caused by the provision which requires development of Title I programs in cooperation with Office of Economic Opportunity-sponsored Community Action Program agencies.

Educators generally listed in their reports these problems with the OEO agencies: Poor communications, overlapping and duplication of responsibilities, power struggles, red tape.

There has been widespread opposition among educators to community action agency development in education. The National Advisory Council reported: "This relationship has, in some cities, handicapped or delayed program initiative by local schools and given excessive authority to CAP agencies."

Said Florida officials: "The frustrations involved in this interagency planning approach were so disquieting at times that there was much question as to whether the benefits gained would offset the problems created."

And from Maine: "It appears to us that there is no necessity for legislation relating community action programs to Title I programs, since the CAP committee is not staffed to intelligently review a Title I project."

State after state bluntly blamed the U.S. Office of Education for chaotic administration of Title I programs, citing a shopping list of complaints on late and inadequate information, fuzzy guidelines, policy conflicts and poor communications in general.

BETTER THAN NEVER

Complained one New Jersey official: "We have just about completed approval of projects for fiscal year 1967 and yet we received, in the past week, a draft of revised rules and regulations to be used for fiscal year 1967."

"The information on the forms is not adequate for providing the reality of project operation," reported Wisconsin officials, "and yet an offer of state assistance in application revision and coordination for the coming year was not well-received at the federal level."

Ohio officials complained: "Inadequate planning was apparent in that the evaluation format, neither in the initial stages nor in its final form, embodied a meaningful basis for evaluation."

Alaska officials blew up on 1968 evaluation procedures. "The administrative absurdity of asking new questions six weeks before the due date of a report should have been apparent . . . Any first year busines student could point out the administrative impossibility of ex-post facto questions."

Kentucky plaintively noted it had received a copy of "Questions to be Answered by State Elementary and Secondary Education Act Title I Evaluations" in April, 1968. Then it received a second, slightly different copy. And then a third, with more variations. Which was the final copy?

The matter of timing for receiving funds under the Act has been an area for particularly tart comment by state officials, whose reports bristled with frustrations: "A mad rush and poor use of funds throughout projects" (Arizona). "Much duplication of time and effort at both state and local levels" (Vermont). "Lack of efficient planning and effective use of money" (Lubbock, Texas).

Poverty education funds are allocated on a formula between urban and rural. Project cost in California, for example, ranges from $252.67 for a single disadvantaged child in a one-room mountain school to over $15 million for 50,000 children in the Los Angeles school district.

Yet, states such as Illinois have noted that in rural districts "time . . . is squandered" attempting to meet guideline technicalities "which are meaningful only in large metropolitan areas."

Large city programs typically have been disorganized and diffuse. With an acute shortage of facilities, stair landings and corridors have become teaching areas. New Orleans reported that employing such heavily-traveled space for speech development "borders on the ridiculous."

Birmingham, Ala., cited problems of "insufficient supervisory staff" and Chicago noted a "critical" shortage of administrative personnel.

Without adequate leadership, project efforts are thinly spread, their effects frittered away. Destruction and theft of record players and other equipment plagues the programs.

Failure to properly diagnose student needs is almost universal. Attendance is irregular, with many dropping out altogether after the first few days.

ANOTHER $1.2 BILLION

In spite of all the criticism, the House Committee on Education and Labor has recommended extension of the Elementary and Secondary Education Act, with $1.2 billion to be spent for fiscal year 1970. The Committee contended Title I has been doing a successful job, reaching more than nine million students in 16,000 school districts. It did recommend strengthening evaluation reports at the state and local level, and establishment of state advisory councils.

By law, the Office of Education is supposed to give Congress an annual evaluation report on Title I programs. It hasn't yet delivered all of these reports and, in fact, it's still groping for a sensible evaluation format. The reports it has made have tended to be self-serving.

From studies of state reports, nearly 200 sources of trouble and tension within Title I have been identified. With the need so great to provide better education for the disadvantaged, it is essential that a critical look be taken at how these programs are working, and that some meaningful way of evaluating them be found.

If not, there will continue to be waste and haste, to the tragic detriment of those who most need help.

EXHIBIT 2

WHY SCHOOL BUSING IS IN TROUBLE

The school bus is running into trouble as a vehicle for racial integration.

Once, only a few years ago, busing was being hailed by civil-rights leaders as the answer to Northern-style segregation—the so-called de facto segregation that occurs when children living in all-black or all-white neighborhoods attend neighborhood schools.

The idea was to bring about racial mixing in the classroom by busing children back and forth—bus Negro youngsters out of their black areas.

There was opposition, often bitter. Battles over busing split many communities. But opponents, frequently denounced as racists, lost in city after city. And the idea spread. Busing has been adopted as an integration method in scores of cities around the U.S.

Now, however, attitudes are changing. The tide of the battle appears to have turned—against busing.

The new trend shows up in a nationwide survey by members of the staff of U.S. News & World Report." According to that survey:

Among civil-rights leaders, educators and Negroes themselves, doubts are growing about the value of busing, either as a method of integration or as a method of improving education.

Interest is growing in a different idea—that Negroes may benefit more from an improvement of schools in their own neighborhoods than they do from being bused into white schools.

"A DEFINITE CHANGE"

In Baltimore, Associate Superintendent of Schools William Tinderhughes told "U.S. News & Report":

"There has been a very definitie change in thinking about busing for integration in recent years. A few years ago, there was demand for busing. But not now.

"Parents now are more concerned with the quality of the education that their children are getting. The same group that at one time was speaking for integration now is speaking about curriculum, about teachers and about the quality of that educational program."

In Chicago, Assistant School Superintendent David J. Heffernan said this:

"The integration battle now has taken a different turn. Busing, as such, is almost completely out of the picture. It has proved effective neither for integration nor for better education."

In Minneapolis, this comment came from Floyd Amundson, school-board consultant in community relations:

"The trend here is away from busing because it doesn't solve anything. The blacks themselves apparently would prefer to have their own schools improved rather than have their children bused to mostly white schools."

On the West Coast, a school official in Los Angeles reported:

"Fewer blacks have been showing up at board meetings to demand integrated schools this year. The 'Black Power' movement, with its emphasis on the isolation of black people, may have something to do with it."

"CLIMATE HAS CHANGED"

The trend toward racial "separatism" shows up in several places. In Pittsburgh, John March, director of public relations for the board of education, said this:

"The climate has changed. The most militant outspoken blacks are not interested in integration. They want separation. You wonder how you can justify busing under these conditions.

"This puts the school boards right in the middle. We are under pressure from the State Human Relations Commission to desegregate. But the militants don't want it. The children even segregate themselves in our high-school cafeterias. We have separate black and white areas that the blacks are mostly responsible for creating. The old rules just don't seem to work any more."

Black separatists, however, are far from being the chief causes for the diminishing popularity of busing.

Civil-rights leaders with long and strong commitments to the cause of integration are questioning the value of the bus. One is James Farmer, former head of the Congress of Racial Equality (CORE) who now, as Assistant Secretary of Health, Education and Welfare, is the highest-ranking Negro in the Nixon Administration. Mr. Farmer announced last March that he had changed his mind on integration by bus. He said:

"Our objective should be to provide a high-quality education. The real problem is not integration or segregation. It is the quality of education. Busing is not relevant to high-quality education. It works severe hardships on the people it affects. In the South, I found blacks complaining of being bused to school."

WHERE BUSING WORKS

All this does not mean that busing is being abandoned as a way of integration.

In a number of smaller cities, where black pupils are a minority, busing has worked with considerable success in improving what educators call "racial balance." It has been accepted without serious protest in many such cities.

One city which advocates of busing cite as an example is Berkeley, Calif. There, in a city of 121,000 population, 3,500 pupils—whites and blacks—are "cross-bused" 'to achieve in each school a racial mix that is almost in exact proportion to the city's school-age population: 49.6 per cent white, 42.8 per cent black and 7.6 per cent Oriental or American Indian. Complaints are mostly over the cost: $530,000 a year for the total integration program, with $204,000 for the actual busing.

Another success story is told in Elmira, N.Y., a city of approximately 50,000 population, with 1,000 Negroes among 14,000 school students. There some 300 white and 200 black pupils are bused outside their home areas to balance enrollments racially. Elmira's Superintendent of Schools Charles E. Davis reported:

"Our troubles have been few. Our over-all conclusion is that no one has suffered and many people are gaining.

"I think that in any moderate-sized city with a relatively small black population, some plan similar to ours could be made to work."

THE NEW YORK STORY

It is in larger cities or in cities with big proportions of Negroes in the schools that busing encounters its greatest problems.

New York City, where the whole busing experiment started a dozen years ago, has had more turmoil than success.

That city has tried almost every integration device known—busing, school "pairing," "open enrollment," redrawing of school-attendance districts, even elimination of junior high schools and substitution of new "intermediate" schools to draw youngsters from wider areas of the city at an earlier age.

Busing alone costs New York City some 3 million dollars a year.

After all this effort there is more segregation, not less. There are more all-black or nearly all-black schools in New York today than there were before. And tests have shown no clear academic gains among children who are bused.

New York's integration attempts have stirred massive protests, have been the targets of numerous lawsuits. Many thousands of white parents have moved out of the city to suburbs.

Now Negroes and Puerto Ricans outnumber whites in the city's schools.

New York, however, is still trying. About 14,500 pupils are riding chartered buses under "free choice—open enrollment" programs designed to improve "racial balance."

In New York State, outside of New York City, the State education department reports that 30 to 35 school districts have systems for correcting "racial imbalance." Most involve busing.

Much of New York State's integration effort is made under pressure of a policy laid down by former State Commissioner of Education James E. Allen, who now is U.S. Commissioner of Education in the Nixon Administration. For New York, he defined any school more than 50 percent Negro as "racially imbalanced," and ruled "there must be corrective action in each community where such imbalance exists."

New York State's general assembly, however, put restrictions on forced integration with a so-called "antibusing" law which was passed last spring and went into effect September 1.

That law forbids appointed school officials or boards to change district boundaries or pupil-assignment plans for the purpose of changing racial balance without consent of parents. This requires programs to be voluntary in many cities, including New York City.

Massachusetts is another State that requires local action against "racial imbalance." State aid can be cut off from schools over half Negro.

Boston, with a number of predominantly Negro schools, is busing about 2,000 pupils at public expense to comply with this law. About 5,000 other pupils are riding buses at their parents' expense in a program of "open enrollment."

Boston also has a new "magnet" school in a Negro area that draws 340 white children—by bus—to take advantage of the special facilities it offers.

All of Boston's bus riders for integration are volunteers. Parents have protested angrily against busing in the past. Mrs. Louise Day Hicks, a leading opponent of busing while head of the school board, recently led all candidates in a preliminary election for the city council.

CITIES THAT BALK

Several large cities with districts that are heavily Negro have refused to follow New York's example of massive busing.

Despite years of heated demands by civil-rights groups, the Chicago school board has insisted on maintaining the "neighborhood school" concept, which results in dozens of schools being nearly all-white or all-black.

The sole busing program there is a small one to relieve overcrowding.

Instead of busing, the school board plans to erect a series of "magnet" schools where specially trained teachers will use the latest methods and equipment to teach a cross-section of children of all races and economic levels.

In Philadelphia, this report came from Oliver Lancaster, assistant director of the board of education's office of community affairs:

"We have no pressure—from either whites or blacks—for massive desegregation. It is not possible to make the massive shifts it would take to accomplish that quickly. Our trend is toward quality schools."

At present, Philadelphia's only busing is to relieve overcrowding in some black schools. A proposed program for integration would involve some busing. But it stresses improved schools—and some specialized schools, in Negro areas to attract white pupils.

Pittsburgh and Baltimore also bus primarily to relieve overcrowding. But the result usually is the mixing of more Negroes into white schools.

CALIFORNIA OPPOSITION

In California, opposition to compulsory busing for integration is mounting steadily. A statewide campaign is under way to place on the November, 1970, ballot a proposal to prohibit such busing.

San Francisco may win the right to elect its school board, mainly as a result of opposition to an integration plan recently adopted by the city's appointive board. That plan calls for busing 4,500 pupils next year.

The Concerned Parents Association has succeeded in putting the proposal for a school-board election on the November 4 ballot. Its hope is to elect enough advocates of "neighborhood schools" to block the busing program.

San Francisco's Mayor Joseph Alioto is on record against the busing plan, saying:

"I don't believe the black community wants it. I don't believe the white community wants it."

In nearby Richmond, voters last April elected three school-board members who campaigned against a forced-busing plan. The new board has replaced the force plan with one which calls for voluntary busing on a smaller scale.

In Pittsburgh, Calif., five Negro families have sued to block busing of their children to white schools. They say they prefer an integration plan that does not put "the entire burden on the Negro pupils."

Sausalito has integrated its schools by a program of busing both white and Negro pupils. School costs have skyrocketed, and some families have sought to transfer out of the district.

Los Angeles has a voluntary busing program which some hail as a success, others as a failure. It affects fewer than 1,000 pupils and was adopted under pressure of a threatened suit.

California's State board of education has ruled that any school is "imbalanced" if its minority enrollment varies more than 15 per cent from the percentage of minority students in the school district.

In Los Angeles, school authorities estimate that 160,000 students would have to be bused at an initial cost of 100 million dollars, followed by a yearly cost of 20 million, to comply with the letter of that ruling. Most school officials take the position that the State board's ruling has no force at law.

COLORADO CONTROVERSY

Denver has been torn by a controversy over busing. The school board adopted an integration program calling for transfers of several thousand children—both black and white. Voters then elected two new board members who swung a vote to rescind the program. But advocates of busing sued and won the program's temporary reinstatement. Now the busing is being done despite continued protests.

MICHIGAN'S PROBLEMS

In Michigan, there may be as many as 70 school districts that bus for racial balance.

One city that does is Grand Rapids. There, about 1,500 black students ride buses from their black-neighborhood homes to schools that are mostly white. And busing has become a focal point of discontent with the school system.

White parents helped elect three opponents of busing in a bitter school-board election last spring.

When classes opened this autumn, a group called Blacks United for Survival (BUS) organized a temporary boycott of the schools. Busing was not the only issue. Some Negroes demand a complete return to neighborhood schools. Some object to "one-way busing" and want whites bused, too. Others complain that the plan does not provide enough integration. Still others demand more emphasis on quality of education.

Here, in a single community, you find most of the problems and controversies that beset busing as a means of integrating Northern schools.

VIEWS IN WASHINGTON

It is not only in cities that busing is losing favor. It has acquired some powerful opponents in the Federal Government, too.

President Nixon recently said, "It's never been the policy of the Administration to impose busing as a way to achieve racial balance." In his 1968 election campaign he criticized busing as "forced integration rather than putting emphasis on education."

Congress has forbidden the Department of Health, Education and Welfare to require busing in order to overcome "racial imbalance."

Representative Edith Green (Dem.), of Oregon, a member of the House Education and Labor Committee, is known as a civil-rights supporter. In an interview in "The Urban Review," she said:

"I seriously question busing for social reform—taking a youngster from a disadvantaged home in a ghetto area . . . transporting him to another school where he spends five or six hours of the day and then is picked up and taken back to the same disadvantaged home, the same tenement area. I have serious questions of how much we're really helping that child."

What Negro parents "are entitled to," Representative Green suggested, is "quality education for their children in the area in which they live."

EXHIBIT 3

[From texts approved by the UNESCO General Conference at its 11th session, 1960]

I. CONVENTION AGAINST DISCRIMINATION IN EDUCATION [1]

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 14 November to 15 December 1960, at its eleventh session,

Recalling that the Universal Declaration of Human Rights asserts the principle of non-discrimination and proclaims that every person has the right to education,

Considering that discrimination in education is a violation of rights enunciated in that Declaration,

Considering that, under the terms of its Constitution, the United Nations Educational, Scientific and Cultural Organization has the purpose of instituting collaboration among the nations with a view to furthering for all universal respect for human rights and equality of educational opportunity,

Recognizing that, consequently, the United Nations Educational, Scientific and Cultural Organization, while respecting the diversity of national educational systems, has the duty not only to prescribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education,

Having before it proposals concerning the different aspects of discrimination in education, constituting item 17.1.4 of the agenda of the session,

Having decided at its tenth session that this question should be made the subject of an international convention as well as of recommendations to Member States,

Adopts this convention on the fourteenth day of December 1960.

ARTICLE 1

1. For the purposes of this Convention, the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

(a) Of depriving any person or group of persons of access to education of any type or at any level;

(b) Of limiting any person or group of persons to education of an inferior standard;

(c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or

(d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

2. For the purposes of this Convention, the term "education" refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

ARTICLE 2

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article 1 of this Convention:

(a) The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study;

(b) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level;

(c) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

ARTICLE 3

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

(a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;

(b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;

(c) Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;

(d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group;

(e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

ARTICLE 4

The States Parties to this Convention undertake furthermore to formulate, develop

[1] As adopted at the thirtieth plenary meeting, 14 December 1960.

and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

(a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;

(b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;

(c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;

(d) To provide training for the teaching profession without discrimination.

ARTICLE 5

1. The States Parties to this Convention agree that:

(a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms: it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;

(b) It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions;

(c) It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however:

(i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;

(ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and

(iii) That attendance at such schools is optional.

2. The States Parties to this Convention undertake to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of this Article.

ARTICLE 6

In the application of this Convention, the State Parties to it undertake to pay the greatest attention to any recommendations hereafter adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring quality of opportunity and treatment in education.

ARTICLE 7

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, including that taken for the formulation and the development of the national policy defined in Article 4 as well as the results achieved and the obstacles encountered in the application of that policy.

ARTICLE 8

Any dispute which may arise between any two or more States Parties to this Convention concerning the interpretation or application of this Convention, which is not settled by negotiation shall at the request of the parties to the dispute be referred, failing other means of settling the dispute, to the International Court of Justice for decision.

ARTICLE 9

Reservations to this Convention shall not be permitted.

ARTICLE 10

This Convention shall not have the effect of diminishing the rights which individuals or groups may enjoy by virtue of agreements concluded between two or more States, where such rights are not contrary to the letter or spirit of this Convention.

ARTICLE 11

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

ARTICLE 12

1. This Convention shall be subject to ratification or acceptance by States Members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

ARTICLE 13

1. This Convention shall be open to accession by all States not Members of the United Nations Educational, Scientific and Cultural Organization which are invited to do so by the Executive Board of the Organization.

2. Accession shall be affected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

ARTICLE 14

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

ARTICLE 15

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory but also to all non-self-governing, trust, colonial and other territories for the international relations of which they are responsible; they understake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

ARTICLE 16

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunication.

ARTICLE 17

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States Members of the Organization, the States not members of the Organization which are referred to in Article 13, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 12 and 13, and of the notifications and denunciations provided for in Articles 15 and 16 respectively.

ARTICLE 18

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession as from the date on which the new revising convention enters into force.

ARTICLE 19

In conformity with Article 1–2 of the Charter of the United Nations this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this fifteenth day of December 1960, in two authentic copies bearing the signatures of the President of the eleventh session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 12 and 13 as well as to the United Nations.

EXHIBIT 4

[From texts approved by the UNESCO General Conference, at its 11th session, 1960]

II. RECOMMENDATION AGAINST DISCRIMINATION IN EDUCATION [1]

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 14 November to 15 December 1960, at its eleventh session,

Recalling that the Universal Declaration of Human Rights asserts the principle of nondiscrimination and proclaims that every person has the right to education.

Considering that discrimination in education is a violation of rights enunciated in that Declaration.

Considering that, under the terms of its Constitution, the United Nations Educational, Scientific and Cultural Organization has the purpose of instituting collaboration among the nations with a view to furthering

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[1] As adopted at the thirteenth plenary meeting, 14 December 1960.

for all universal respect for human rights and equality of educational opportunity.

Recognizing that, consequently, the United Nations Educational, Scientific and Cultural Organization, while respecting the diversity of the national educational systems, has the duty not only to prescribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education.

Having before it proposals concerning the different aspects of discrimination in education, constituting item 17.1.4 of the agenda of the session,

Having decided at its tenth session that this question should be made the subject of an international convention as well as of recommendations to Member States,

Adopts this Recommendation on the fourteenth day of December 1960.

The General Conference recommends that Member States should apply the following provisions by taking whatever legislative or other steps may be required to give effect, within their respective territories, to the principles set forth in this Recommendation.

I

1. For the purpose of this Recommendation, the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic conditions or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

(a) Of depriving any person or group of persons of access to education of any type or at any level;

(b) Of limiting any person or group of persons to education of an inferior standard;

(c) Subject to the provisions of section II of this Recommendation, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or

(d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

2. For the purposes of this Recommendation, the term "education" refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

II

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of section I of this Recommendation:

(a) The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study;

(b) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems of institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level;

(c) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

In order to eliminate and prevent discrimination within the meaning of this Recommendation, Member States should:

(a) Abrogate any statutory provisions and any administrative instructions and discontinue any administrative practices which involve discrimination in education;

(b) Ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;

(c) Not allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;

(d) Not allow, in any form of assistance granted by the public authorities to educational institutions, any restriction or preference based solely on the ground that pupils belong to a particular group;

(e) Give foreign nationals resident within their territory the same access to education as that given to their own nationals.

IV

Member States should furthermore formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

(a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;

(b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;

(c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;

(d) To provide training for the teaching profession without discrimination.

V

Member States should take all necessary measures to ensure the application of the following principles:

(a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;

(b) It is essential to respect the liberty of parents and, where applicable, of legal guardians firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure, in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions;

(c) It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however:

(i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;

(ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and

(iii) That attendance at such schools is optional.

VI

In the application of this Recommendation, Member States should pay the greatest attention to any recommendations hereafter adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and of treatment in education.

VII

Member States should be in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization, on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Recommendation, including that taken for the formulation and the development of the national policy defined in section IV as well as the results achieved and the obstacles encountered in the application of that policy.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its eleventh session, which was held in Paris and declared closed the fifteenth day of December 1960.

EXHIBIT 5

[From the CONGRESSIONAL RECORD, June 17, 1969]

THE RACIAL BALANCE DECISION OF THE SUPREME COURT

Mr. ALLEN. Mr. President, on June 2, 1969, the Supreme Court of the United States handed down what we believe will become one of the most controversial decisions in the history of the Court. This conclusion is arrived at by reason of the truly revolutionary principle of "racial balance" announced by the Court, and on a consideration of the almost unlimited field for application and dangerous potential for mischief inherent in the principle.

Mr. President, I refer to the decision in United States against Montgomery County, Ala., School Board. The factual background in a nutshell is this: The Federal District Court in Montgomery, Ala., established an absolute standard for employment and assignment of schoolteachers in the Montgomery County school system in the following language:

"In each school the ratio of white to Negro faculty members (must be) substantially the same as it is throughout the school system."

This particular ruling was taken on appeal to the U.S. Court of Appeals for the Fifth Judicial Circuit, where the racial ratio standards for assignment of teachers to separate schools was rejected and the lower court order was modified to provide for "substantial or approximate" attainment of racial ratio as a future goal. The Supreme Court overruled the circuit court of appeals and reinstated the racial ratio standard as controlling criteria in future teacher assignments.

Mr. President, I submit that the principle established by this decision is that of "racial balance" and that it is of such importance as to call for much more critical attention than it has yet received.

In this connection, the problem of critical analysis is made somewhat difficult by reason of the devious approach employed by the Supreme Court in laying down the principle and by reason of the refusal of the Court even to mention the far-reaching implications of the principle. In short, the Court affirmed the obverse of the principle of racial balance without mentioning the necessary proposition from which the obverse is inferred. Let me illustrate.

A proposition stating that the Constitution requires racial participation in employment in public services proportionate to the numerical strength of the separate races in a community is precisely the same as declaring that the Constitution requires racial balance in the employment of races in public services. The obverse of this proposition is that any deviation from racial balance is unconstitutional.

It will be recalled that the Supreme Court approved the order of a Federal district court which assigned racial ratios to separate schools as a means of correcting racial imbalance reflected in employment and assignment of teachers. In doing so, the Supreme Court necessarily established the principle that proportionate racial participation or racial balance in the employment and assignment of teachers is an affirmative requirement of the Constitution.

The fact that the Supreme Court incorporated the requirement of racial balance into the Constitution by upholding the obverse of the above proposition rather than by directly affirming the principle cannot alter the fact that the principle of racial balance is clearly and unavoidably laid down as an affirmative requirement of the Constitution. The only question left open by the Court is to what degree the standard is to be achieved.

The term "racial balance" implies the existence of an ideal degree of racial participation in public services. This ideal is considered to reflect racial participation in employment or services proportionate to the numerical strength of the races in the population of a community. When such proportion is expressed as a ratio, as was done in the case under consideration, the effect is to prescribe racial balance as the goal.

In the instant case the Federal district court judge directed the assignment of teachers to achieve racial balance in this language:

"In each school the ratio of white to Negro faculty members (must be) substantially the same as it is throughout the school system."

We do not imply that the Supreme Court has said that henceforth every Federal district court judge in the United States must order assignment of teachers to schools in a manner to achieve immediate and precise racial balance. On the contrary, the Supreme Court in establishing the principle of racial balance expressed the opinion that it did not believe the district court judge intended to apply the principle inflexibly as to time and presumably as to mathematical exactitude.

On the other hand, the Supreme Court went out of its way to make clear that "substantial and approximate" attainment of the ideal racial participation would not meet the Supreme Court concept of constitutionally required racial balance. In fact the Supreme Court specifically rejected the "substantial or approximate" criteria, suggested by the U.S. Court of Appeals, in favor of the mathematical ratio imposed by the Federal district court.

So while "racial balance" has been established as an affirmative requirement of the Constitution, the precise degree of conformity required remains hanging. However, we do know that something less than exact proportionate racial participation may be acceptable to the Supreme Court but that something more than "substantial or approximate" balance is required.

Previous Supreme Court attitudes regarding a constitutional mandate of mathematical preciseness in allocating legislative powers of State and Federal Governments leaves little room to doubt that the Court intends in this case to impose near precise racial balance as the constitutional requirement for employment in public services.

In any event, no one can seriously question the fact that under the Constitution, as revised and edited by the Warren Court, racial participation in public employment must be proportionate to the numerical strength of the races in the population and that such standard is in essence the standard of racial balance. Neither can it be doubted that this essentially social concept of racial balance has been dressed out by the Court and armed with the coercive powers of Federal Government under the guise of a principle of constitutional law.

One result of this decision is that Federal district courts throughout the United States are now vested with near unlimited discretionary powers over public school systems. Such courts can compel employment and assignment of teachers until racial balance is achieved in each school in the separate school systems throughout the Nation. Additional discretionary powers vested in Federal district court judges include the power to veto over location of new schools, a power of supervision over recruitment, hiring, firing, promotion, and transfer of teachers and administrative personnel, as may be necessary to achieve the new constitutional mandate of racial balance.

And, while the decision was rendered in a case involving employment and assignment of public school teachers, it cannot seriously be questioned that the principle applies with equal force to assignment of schoolchildren. Consequently, Federal district courts are now vested with power to redraw school attendance boundaries, to close schools and compel transfer and busing of pupils, and otherwise to supervise the public school systems in a manner to reach what is now said to be a constitutional mandate of racial balance in public schools.

In addition, the principle has application to employment in all public services of which teaching is but one. It has application to employment in the civil services and to firemen and policemen on all levels of government.

The principle has application also to all private employment in firms doing business with any branch of Federal, State, and local governments.

Another inevitable result of the decision is that every racial minority in the United States may now allege deviation from racial balance in employment as a basis for legal action to compel racially proportionate employment. In addition, the Federal executive is authorized and empowered by this decision to send its agents throughout the land armed with authority of the Supreme Court decision to further dictate employment practices in private employment.

Consequently, we can reasonably expect to see ushered in a new era of litigation which may extend from now to eternity or until the Supreme Court holds that the "racial balance" mandate of the Constitution prohibits an employee from exercising the right to quit, change jobs, or move when to do so would result in creating a now constitutionally prohibited racial imbalance in employment.

We recognize that this last projection may seem to be unreasonable but we most sincerely submit that it does not strike us as more unreasonable as a possibility than the ruling that the Constitution requires hiring and assignment of employees by racial quotas in order to achieve a racial balance in employment.

And I do maintain that the Supreme Court decision is unreasonable in the extreme. It is irrational, arbitrary, and invidious. It utterly disregards the public interest; it disregards individual merit and experience and qualifications; it disregards educational criteria such as the availability of qualified and experienced teachers as may be required by education considerations. Furthermore, it disregards the will and wishes of the teachers and pupils involved and it disregards the will and wishes of the people of the communities involved and thus disregards the necessity for public support of the education system. Finally, the racial balance mandate disregards what parents may believe to be the best interest of their children in a most intimate matter affecting the health, safety, and moral welfare of their children.

The Supreme Court decision goes even further than this. It specifically defies the will of Congress. For example, in the appropriation bill for the Department of Health, Education, and Welfare, passed in October 1968, it was specifically provided:

"No part of the funds contained in this act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance."

In addition the Civil Rights Act of 1964 states:

" 'Desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance . . .

"Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance."

Innumerable expressions of legislative intent of a similar nature have been incorporated in Federal aid to education statutes—but aside from misleading the people, what avail are these expressions of congressional intent in the face of this last Supreme Court decision?

The Supreme Court has declared a new ball game. Congressional intent no longer matters, nor the will and wishes of State legislatures, nor of elected local school officials, nor that of teachers or even parents of the children. Racial balance is the new and controlling constitutional criteria for determining the location of new schools, in decisions related to closing and consolidating schools, in transferring and busing children, and in the assignment of pupils and teachers. Consequently all decisions on these questions are now supposed to be within the purview of discretionary powers of a single Federal district court judge.

Mr. President, tyrannical powers are thus vested in Federal district court judges. This is a situation unparalleled in the history of our Nation or in the history of any nation of free people. For in truth, such powers are absolutely incompatible with a government of a society of free people.

Let me cite an example of tyrannical control. The U.S. Court of Appeals for the Fifth Judicial Circuit decided to turn control of the Mobile County, Ala., school system over to the Department of Health, Education, and Welfare. This is the judicially assigned responsibility of the Department of Health, Education, and Welfare as laid down by the Court:

"The District Court shall forthwith request the Office of Education of the United States Department of Health, Education, and Welfare to collaborate with the Board of School Commissioners of Mobile County in the preparation of a plan to fully and affirmatively desegregate all public schools in Mobile

County, urban and rural, together with comprehensive recommendations for locating and designing new schools, and expanding and consolidating existing schools to assist in eradicating past discrimination and effecting desegregation."

Mr. President, the above language is an order to the Federal district court judge to request the Department of Health, Education, and Welfare to restructure the public school system of an entire county having a population of approximately 300,000 people, despite the specific language of an act of Congress which prohibits expenditure of HEW funds for achieving racial balance in public schools.

Yet, under authority of the racial balance decision of the Supreme Court, the Department of Health, Education, and Welfare can do nothing but reorganize the public school system to achieve racial balance.

The above approach can reasonably be expected to be followed throughout the United States.

After years of judicial doubletalk we now know that the ends to be achieved by Federal courts is not "desegregation" nor "nondiscrimination" but rather "racial balance" defined by the Court as racial participation in the public services proportionate to the numerical strength of the races in a particular unit of employment. And this theoretical social ideal imposed by the Superme Court as law of the land must be achieved to a degree that is more than substantial or approximate even though less than mathematically precise.

Mr. President, I predict that the people of our Nation are not going to accept tyrannical control over the lives of their children affecting, as it does, the safety, and moral welfare of their children. This can mean but one thing. Federal district courts have to continue to resort to processes of the inquisition to enforce its school orders. They can gain compliance only by threatening elected local school officials with confiscation of their property by imposition of heavy fines and threats of imprisonment or both without benefit of trial by jury. This fact expresses a judgment on the whole sorry system.

On the part of the Federal executive, it must continue the vicious practice of depriving innocent children of food, money, and other benefits authorized by Congress. In areas other than public education the executive must continue to deprive and threaten to deprive the aged, sick, poor, handicapped of necessities of life as a means of compelling compliance with its dictatorial orders. In still other areas the Federal executive must continue to threaten abrogation of contracts and thus financial ruin of private business as a means of enforcement.

Mr. President, I submit that the enforcement techniques adopted by the Federal judiciary and the Federal executive are alone enough to condemn the policies and decisions which gave them birth. These techniques reveal an underlying callousness and even viciousness on the part of disciples of force and violence some of whom currently wield this hideous power in our Republic.

Mr. President, there is but one solution to this corruption—it is to amend the Constitution of the United States to return control of public schools to the States and to the people. I have submitted a proposed constitutional amendment for submission to the States to do just that.

EXHIBIT 6

[From U.S. News & World Report, Aug. 31, 1970]

CLARIFICATION NEEDED

(By David Lawrence)

If ever there was a time when it was necessary for the Supreme Court of the United States to come forth with a decision clarifying the many ambiguous opinions, rulings and orders hitherto handed down by the appellate and lower courts, it is right now.

Ever since the historic decision of 1954 outlawing segregation in the public schools, there has been uncertainty as to how far school authorities must go to accomplish "desegregation." The High Court itself has never said that it necessarily requires compulsory integregation. Congress in the Civil Rights Act of 1964 declared that "desegregation" shall not mean "the assignment of students to public schools in order to overcome racial imbalance."

Again and again, however, some of the lower courts have ordered school boards to adopt plans which specify a certain percentage of blacks and whites in the student body and faculties of each school within their district. The theory behind many of the decisions has been that wherever State authority has created school systems which permitted or encouraged segregation, the results were what is called "de jure" segregation, as distinguished from "de facto" segregation in schools in other parts of the country where neighborhood patterns were followed.

But to all intents and purposes school authorities everywhere are confronted with the fact that in their areas some schools are predominantly white and some are predominantly black. The pressure on school boards has been to bring about a gradual lessening of such racial imbalance. The lower courts have from time to time gone along with the idea that the school systems could rearrange their districting and assignment patterns so as to conform to a concept of less and less segregation.

The Supreme Court originally said that desegregation should be carried out with "all deliberate speed," but last year it explicitly declared that "the obligation of every school district is to terminate dual school systems at once and to operate hereafter only unitary schools." Unfortunately the Court did not define what constitutes "unitary schools," and lower courts have varied in their interpretation of what is required. Some have ordered desegregation plans that virtually call for "racial balance" and have set specific dates on which they must be put into effect—often within a few months. Several schools have been given notice that this will have to be done by September 1970.

The only way that some of these programs can be carried out is by extensive busing of students. This requires the purchase and operation of a large number of buses, which is, of course, expensive and involves either more taxes or less money for other school programs. More complications have arisen as parents object to having their children transported long distances from their own neighborhoods, and teachers are dissatisfied with being compelled to travel to schools far away from their homes. Confusion has resulted.

Now the school authorities in the South want to get from the Supreme Court a final determination of what must be done to achieve the purposes of its desegregation decrees. They also want to see the Court apply its rulings to schools outside the South, too, even though the segregation in them is described as "de facto." Many members of Congress are saying that "the law of the land" should be the same everywhere.

So the whole problem comes back to the Supreme Court of the United States, and in the last few days officials of the Administration, including the Attorney General, have been urging the High Court to render a decision which will enable school authorities in the South to know exactly what they have to do to conform to the objective of desegregation. Some lower court judges have been recognizing the realities of the situation and have not been compelling racial balance. Others are imposing plans which, in effect, set racial quotas for all schools, irrespective of whether the predominance of one race or the other results naturally from residential patterns. Only the Supreme Court can resolve the differences between these lower court rulings and set the standards of what is or is not required to accomplish desegregation.

Notwithstanding all of the controversy, the South has made a great deal of progress in eliminating segregated schools. Many school districts have desegregated voluntarily and without friction. In seven Southern States committees have been appointed, consisting of white and black leaders. They have been working with Administration officials to carry forward the desegregation effort.

The occasion now is at hand when all the parties concerned believe that the Supreme Court can be of help in solving the most complex problems ever faced in the field of education. But prompt action is needed with clear definitions to guide everybody—school authorities the judiciary and the executive departments. For the nation's highest court still holds the answer to the riddles of "desegregation."

EXHIBIT 7

[From the CONGRESSIONAL RECORD, Aug. 25, 1970]

S. 4287—INTRODUCTION OF A BILL RELATING TO PLANS OR RECOMMENDATIONS IN THE MATTER OF SCHOOL DESEGREGATION

Mr. ALLEN. Mr. President, I introduce for appropriate reference a very short bill to which few can take exception. I ask unanimous consent that the bill be printed at this point in the RECORD for purpose of comment thereon.

The PRESIDING OFFICER (Mr. FANNIN). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4237), to provide that the U.S. Senators and the Members of the House of Representatives concerned with any plan or other recommendation relating to school desegregation prepared by any officer or employee or agent of the Department of Health, Education, and Welfare for submission to any U.S. court or any public agency of a State be furnished a copy of such plan or other recommendation, and for other purposes, introduced by Mr. ALLEN, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

"S. 4287

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no plan or recommendation or modification of an existing plan or recommendation prepared by any officer or employee or agent of the Department of Health, Education, and Welfare concerning the desegregation of the schools of any local educational agency within any State shall be furnished to any Court of the United States, any public agency of a State, or any political subdivision of such State, unless a copy of such plan, recommendation or modification has been submitted to the United States Senators of that State and to the Members of the House of Representatives from the Congressional Districts in which the schools of such local educational agency are located. Any such copy shall contain a statement that the plan, recommendation or modification does not effectively exclude any student or teacher from any school of the local educational agency because of race, or color, and shall be attested to under oath or affirmation by the Secretary of Health, Education and Welfare or his designee."

Mr. ALLEN. Mr. President, it will be seen that the bill merely requires the Department of Health, Education, and Welfare to submit

a copy of desegregation plans, recommendations or modification of existing plans or recommendations prepared under auspices of the Department to the Senators and Representatives of the respective States and congressional districts in which the schools affected by such plans are located.

Ordinarily, Mr. President, it would seem that Senators and Representatives are entitled to copies of such plans as a matter of courtesy. Instead, experience has demonstrated that the Department of Health, Education, and Welfare is reluctant to disclose such plans, recommendations or modification prior to submission for consideration and implementation by Federal judges or by local school boards.

Yet, Mr. President, the citizens of the State and congressional districts involved looks to us for relief from what appears to them to be grossly unreasonable and sometimes unlawful plans imposed upon the schools and schoolchildren affected by those plans.

The primary purpose for reviewing such plans before they are submitted for implementation is to determine whether or not the actions contemplated are consistent with laws of Congress and decisions of the U.S. Supreme Court.

It is my sincere judgment that many plans prepared by the Department of Health, Education, and Welfare and submitted for implementation by Federal district courts are unreasonable, irrational, contrary to laws of Congress, and without authority under any specific ruling of the U.S. Supreme Court.

For this reason the bill provides that copies of such plans or recommendations contain a statement affirming that such plans or recommendations do not go beyond what is required by the U.S. Supreme Court.

It is a fact, Mr. President, that school plans and recommendations have been prepared by agents of the Department of Health, Education, and Welfare and submitted to Federal district courts for implementation which are without authority of statutory law and which so beyond anything which the Supreme Court of the United States has required.

Mr. President, we recall extended debates on the merits of the Whitten amendments, the provisions of which limited the Department of Health, Education, and Welfare in the matter of requiring busing. We recall that liberal forces in the Senate were successful in attaching an amendment to the Whitten amendment expressed in the term "except as required by the Constitution."

The implication in the exception was that the Department of Health, Education, and Welfare should be limited in its plans and actions unless such plans and actions were authorized by Supreme Court decisions.

In this connection, Mr. President, in Northcross and others against Board of Education of the Memphis, Tenn., City Schools and others, decided March 9, 1970, Chief Justice Burger made this special point, he said:

"As soon as possible, however, we ought to resolve some of the basic practical problems when they are appropriately presented including *whether, as a constitutional matter any particular racial balance must be achieved in the schools;* to what extent school districts and zones may or must be altered as a constitutional matter; and to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the Court." (Emphasis supplied.)

Mr. President, some of the school plans prepared by the Department of Health, Education, and Welfare and submitted for implementation by Federal district courts in Alabama treat all of these questions as having been already decided by the Supreme Court. For practical purposes of desegregation of schools the Department of Health, Education, and Welfare and the U.S. Attorney General have constituted themselves a Supreme Court in all matters affecting desegregation of public schools.

They have decided as a matter of constitutional law that racial balance must be achieved in certain schools in the South although the Supreme Court has not said so and the administrative rulings in this regard are not uniformly applied.

Then, too, the Department has decided on its own initiative to what extent school districts and zones must be altered as a constitutional matter. Yet, the Supreme Court has not so decided.

Furthermore, the Department of Health, Education, and Welfare has determined to what extent transportation may or must be provided by the separate local school boards.

Surely, Mr. President, those Senators who were so insistent on compliance with constitutional standards in opposing limitations on the Department of Health, Education, and Welfare will recognize that the Department has acted not as required by the Constitution but as dictated by its own notions.

On the other hand, where the Supreme Court has spoken authoritatively on a particular subject, the Department of Health, Education, and Welfare and the U.S. Attorney General utterly disregard the mandate of the Court.

Let me quote further from Chief Justice Burger who said:

"The suggestion that the Court has not defined a unitary school system is not supportable. In Alexander v. Holmes County Board of Education, 396 U.S. 19 (1969), we stated, albeit perhaps too cryptically, that a unitary system was one 'within which no person is to be effectively excluded from any school because of race or color.' "

In the fact of this definition, the Department of Health, Education, and Welfare continues to submit desegregation plans which violate this rule in that such plans are designed to effectively exclude literally thousands of schoolchildren from public schools for no other reason than that of race or color.

In some instances the Department of HEW excludes both white and black children from public schools in their neighborhoods in order to achieve racial balance and without regard to the will or wishes of the parents and without regard to the health, safety, morals, and general welfare of the children, and without regard to the will, wishes, and authoritative opinion of local school authorities and without regard to the Supreme Court definition of a unitary school system.

In addition, the Department willfully and wantonly redraws school district boundaries and school attendance zones and recommends transportation of children long distances from their homes for no other reason than the race and color of the children involved.

Mr. President, U.S. Senators and U.S. Representatives elected by the people have a right to know beforehand whether school plans prepared by Federal agents and agencies of the Federal Government conform to the law of the land. The evidence is conclusive that the law is being violated.

Mr. President, it is my judgment that every U.S. Senator has a vital interest in the passage of this bill. The plans, the processes, and the procedures now being applied in the Southern States are precisely the plans, processes, and procedures which will be soon applied in all sections of the Nation.

The de facto-de jure distinction is a fabrication of special pleaders in the Department of Health, Education, and Welfare. It will not hold up.

Let me assure Senators that arbitrary and unlawful procedures if permitted to go unchallenged in the South will be the same arbitrary procedures applied in your States. The people of your State will demand explanations and relief no less than the people of Alabama and the South demand explanations and relief.

We ask only that as elected representatives of the people we be informed of the plans, recommendations, and modifications of such which the Department of Health, Education, and Welfare intends to ask Federal courts to implement.

Who can reasonably object to such a request?

EXHIBIT 8

[From Look magazine Sept. 8, 1970]

DO MOST AMERICANS SECRETLY WANT SEGREGATION?

(By Senator ABRAHAM A. RIBICOFF)

Last February 9, in a speech on the floor of the United States Senate, I accused my own part of the country, the North, of "monumental hypocrisy" in its treatment of the black man. My speech occurred during debate on an amendment calling for a uniform national policy on school desegregation. Sen. John Stennis of Mississippi sponsored the amendment. I said I would support Senator Stennis.

In the speech, I argued that what is evil in Mississippi does not become a virtue when it is practiced in Connecticut. We Northerners have been too eager to point out the horrors of Southern segregation originally based on law (*de jure*), while moving to the suburbs and segregating our schools according to our housing patterns (*de facto*).

Of course, Presidents, senators, sociologists and boards of education can debate the relative evils of *de jure* and *de facto* segregation all they want. But for the black child who is forced to suffer segregated education, there is no difference.

Whether you call it *de jure* or *de facto*, it is segregation—pure and plain. For the black child, it means white people don't think his life is as important as a white child's or that he is good enough to associate with their children.

How the message comes, whether by *de jure* or *de facto*, is irrelevant. What counts is the damage. That is the same in both cases. It often is permanent, jeopardizing the black child's entire adult life. No legal phrase can soften the blow or end the pain. The phrase *de facto* has only one purpose. It provides a "respectable" screen behind which white Americans can discriminate against black children.

Without question, many Southerners hoped the Stennis amendment would slow down integration in the South. Though the states that had dual school systems are desegregating under constitutionally based Supreme Court orders that nobody can change, some hard-core resisters are still trying to circumvent those orders by such methods as segregated classrooms in "integrated" schools or with private schools for whites. Clearly, any kind of slowdown in the South is unacceptable.

But it is time for us to stop looking only at the motives of the South. What about the motives of the rest of us? How committed are we to integration in our own backyards?

Those of us in the North should begin to look honestly at ourselves and see that our contribution to integration has been to refine the art of making sure blacks can ride in the front of buses we never ride, can live in someone else's neighborhoods and can work in the lower reaches of our organizations.

The fundamental problem is the increase in *de facto* segregation in both the North and the South. As long as this nation avoids facing the issue of *de facto* segregration squarely, many will insist that such segregation is accidental and therefore not illegal. This does more than absolve the North of responsibility for the unequal education afforded black children in their own communities. It also is an open invitation to the South to emulate the North.

In time, the South can argue that it has

ended *de jure* segregation and replaced it with the *de facto* kind. As proof, the South will soon be able to say its cities and suburbs are just like the North's—black cities, white suburbs. Then what will our tolerance of *de facto* segregation have achieved? I argued seven months ago that we needed a national policy to end segregation in the North as well as the South. The needs seems even more urgent now. If anything, recent actions by the President and the Congress have strengthened my conviction that America is heading down the road to apartheid, a strict separation of the races, based on *de facto* segregation, and that nobody who has the power to alter this course appears willing to do so.

The Senate did pass the Stennis amendment. But the Senate-House conference committee watered it down to the point where it marked a giant step backward. For the first time, Congress wrote into law the distinction between *de facto* and *de jure* and singled out only *de jure* for government action.

On March 24, President Nixon told the nation that while *de facto* segregation was "undesirable," his Administration would require no steps to end it, in either the North or the South.

Then, on May 21, the President introduced his Emergency School Aid Act of 1970, a two-year, $1.5 billion package designed to promote desegregation. This legislation provides financial assistance for *de jure* school systems that must desegregate.

But the President's program also builds on the shortcomings of the earlier desegregation message with regard to *de facto* segregation. It doesn't require anything of anyone. It is purely voluntary. If you want to desegregate, fine. There will be money available to help you over the hurdles. If you don't, that's OK, too. It's not illegal. The decision is yours. The Federal Government will stay neutral.

In short, *de facto* segregation is still a "U.S. Government Approved" product. The President's program allows us all to continue to talk a good game of integration while serenely practicing segregation. The message to the South is unmistakable: If you segregate your society as well as your schools, as we do in the North, we can all segregate together.

What bitter irony that the model for American apartheid should come from the North. Most of us always believed apartheid would come exclusively from the South, whose legacy of slavery and legalized segregation was fundamentally responsible for most of the racial tension in this nation. There is little doubt that if life had been better in the South, the black man would have stayed. He would not have embarked upon one of the greatest and swiftest migrations of the single people in our history.

But the South, no matter what happens with this month's school-desegregation drive, has no monopoly on being brutal to the black man. When he moved North, our welcome was a ghetto, an unemployment line, a substandard tenement, a poor school and no medical care. And all our criticism of the South, no matter how justified, cannot excuse or erase these facts. The North has been just as successful in denying to the black man and his family the opportunities we insist upon for ourselves and our families Only we tell ourselves it isn't our fault. The institutions are responsible. There is nothing we can do. It's a terrible "accident," a fact all of us may decry, but for which few of us will accept responsibility.

An almost classic example of this kind of thinking occurred recently in Pontiac, Mich., when the Board of Education told a Federal court that the city's schools were segregated because its neighborhoods were segregated. The Board agreed with the black parents who had brought suit that a black child's segregated education was inferior and harmful and that the resulting damage was irreparable. But the Board argued that, since it had not created the segregation, it had no responsibility to correct this admittedly harmful and devastating condition.

The U.S. District Court Judge, Damon J. Keith, ruled otherwise. He found that despite its frequent pronouncements in support of integrated education, the Board had used its powers to perpetuate segregation and prevent integration.

The segregation in Pontiac is no accident. Nor is it in many American communities. Unlike its Southern counterpart, Northern segregation may not be traceable to one official action. But the thousands of individual decisions—by school boards, real estate brokers, businessmen, politicians, and private citizens—that created *de facto* segregation were all based on the same objective as the official *de jure* action: to keep blacks and whites separate.

Furthermore, a segregated education is harmful to white children as well. White students having no contact with blacks during their school years receive a distorted view of American society. Many of them acknowledge this fact and complain about it.

How can we reverse this trend?

We can begin by recognizing that we don't have to wait for the Supreme Court to rule on *de facto* segregation. The President and the Congress have all the power they need. The longer we wait, the worse the problems will be.

The Supreme Court originally acted against segregation in 1954 largely because every other political institution refused to act. If the President and the Congress continue to abdicate their constitutional responsibilities, they will only succeed in paralyzing the courts, which cannot carry the entire burden by themselves. Or, taking their cues from a reluctant Washington, courts may begin to give legal sanction to *de facto* segregation.

We must also recognize that focusing only on integration in our central cities will simply drive many of the remaining whites to the sanctuary of the surrounding suburbs.

A recent opinion poll reported that most Americans support integration and are willing to send their children to integrated schools. Substantial opposition to integration generally occurs when schools and neighborhoods cease to reflect the society at large. But this need not be an insurmountable problem if we view the entire metropolitan area—including the suburbs—as a whole. The percentage of blacks in most of these areas is less than 20 percent. In fact, in the major metropolitan areas in 1969, blacks made up only 12 percent of the population.

Our goal then should be a national policy to end segregation in all our schools, no matter what we call that segregation or how it occurred. We can't expect this to happen overnight. But we can require that all school districts in a metropolitan area formulate plans now to end segregation in all our schools within ten years. Every area's plan must provide for uniform progress each year, with the result being an end to all racial segregation in the final year.

Only when we require school integration throughout our metropolitan areas can we guarantee sufficient stability to avoid the white flight that has characterized large-scale integration thus far. Variations should be allowed, but only those that occur within the context of obtaining general racial balance.

Our policy, and the methods of achieving it, must be compulsory, all-inclusive and based on a timetable. We have had enough halfway houses for human rights in this country. They don't work. Left to our own devices, we will behave just as the South did for so many years—long on deliberations and short on speed.

Many argue that the suburbs never will go along with this. My answer is to end all Federal educational assistance to any individual school district that refuses to participate in its area's plan. Federal assistance also should be denied any state that gives aid to a school district that does not participate in such a plan.

Those communities that are hard-pressed to finance integration will need whatever help we can give them. Therefore, as the President has suggested in part, the Federal Government should provide school districts with funds to cover the additional expenses involved in desegregation. Cost is not a valid reason for the continued denial of human rights.

Talk of integrating suburban schools often results in frantic discussions about busing. Much of this issue is a "red herring." Millions of American children already are bused to school. Suburban parents often insist upon the opportunity for their children to ride on a school bus as a matter of right.

Moreover, busing is only one technique for integrating schools. Many school districts have successfully integrated their schools by redrawing district lines, pairing neighborhood schools, and locating new schools in areas that make integration easier. These techniques have actually reduced the amount of busing in some areas.

Many who object to busing don't really object to the bus ride. Their concern is the school at the end of the ride. As long as broad disparities exist in the caliber of students, teachers, atmosphere and equipment in our schools, I can understand a parent's concern over proposals that would take his child from a school he knows to one that is unknown.

America cannot allow these disparities in its schools to continue. But the solution is not continued opposition to integration. Nor is it a call limited only to improving ghetto schools. Integration and the improvement of all schools must go forward together.

In the long run, though, lasting school integration cannot occur in a segregated society. It is a fantasy to think that integration can be achieved by letting black children attend our schools when we won't let their parents live in our neighborhoods. That was the basic point I sought to make last February. It is of critical importance.

Some 80 percent of all the new jobs developed in the past 20 years are in the suburbs. Blacks must have access to those jobs and to homes near them. We should encourage the suburbs to provide low-income housing. Private industry should hire more blacks and refuse to move into a suburb until housing for their low-income workers is provided. The Federal Government should refuse to locate its facilities or allow its contractors to locate in areas that do not provide low-income housing.

At the same time, the Federal Government must recognize the severe financial problems confronting suburban communities throughout the country. We therefore should supply additional funds to those suburbs that provide housing, employment and education for blacks in order to cover the additional expenses they have as a result of these activities.

I realize that this is a tall order, one that causes many supporters of integration to despair of the likelihood that we ever will take these steps. Some liberals even oppose a uniform national policy on desegregation on the grounds that spreading the skimpy Federal resources for implementing desegregation across the country will totally destroy their usefulness; that *de facto* segregation is a complex process against which we must move very carefully and slowly; and that moving in the North will generate such opposition that progress will stop everywhere.

But to me, these arguments are unpersuasive as they were last February. The Congress has said it would provide the men

and the money to implement desegregation on a national scale. Tripling Federal school-desegregation-enforcement activities would cost only $10 million more a year. This country presently spends less than $5 million a year in this area.

The "go slow" argument is based on the same reasoning that sent many Northern liberals into hysterics when it came from south of the Mason-Dixon line. Except we don't even have a policy of "go slow" in the North. We have a policy of "no go."

On the third point, that moving in the North would create enormous opposition. I have always assumed that we sought integration—and still seek it—not because we think it is popular but because we prize certain basic human rights. Nobody ever argued that integration was popular. But that doesn't justify a double standard for black children that says what's bad for you in the South is good for you in the North.

There is another question that we ought to settle once and for all: Why should we fight for integration when many blacks themselves call for separatism?

It is true that some blacks don't want integration. This is an understandable paradox. White tokenism in both the North and South has made these blacks frustrated, bitter and angry. They want only to be left alone.

But it's a curious kind of morality that drives blacks to such despair over the possibilities of achieving integration and then uses this despair to justify doing—or not doing—what we have always done or not done.

The most important fact is this: Most blacks still want integration. They cling to the same hopes and goals America has held out to every other group. Denying them their rightful opportunity because a minority of blacks has become impatient, and with good reason, is a shabby betrayal of the ideals this country is supposed to represent.

Making integration a national goal should not make it an impossible goal. I fervently hope that our commitment to integration is not so fragile that we shall discard it when we are asked to meet it. There are more constructive things for us to do than write obituaries for the cause of human rights in America.

EXHIBIT 9

[From the Washington Post, Aug. 29, 1970]

DESEGREGATION: WAITING ON THE COURT

It is hard to see how the Supreme Court could have done otherwise than refuse—as it did this week—to set aside school desegregation orders affecting Charlotte, N.C., and three other Southern cities. Or perhaps it is more accurate to say that it is hard to imagine the confusion that would have followed. The court had earlier agreed to hear the Charlotte case and will do so this fall. It will be an important case, since it will mark the first time the high Court has waded into the growing controversy over the meaning of desegregation in the context of the large urban centers of the South. U.S. District Judge James B. McMillan has ordered the schools of Charlotte and Mecklenburg County to do away with all black schools, to reproduce the district's 70-30 percent proportion of white to black schoolchildren in it individual schools, and to do so by means of busing an additional 13,000 children to school. There has been a complex history to this case, but—pending the Supreme Court's hearing and decision—Judge McMillan's order is in force. And since school is about to reopen not just in Charlotte but in cities across the South under any number of conflicting lower court orders, the setting aside of the Charlotte order could only have produced disruptive last minute attempts to reverse course in district after district.

The Southern (and to some extent Northern) landscape is strewn with these controversial, semi-settled, and often contradictory court orders, and that is why the Charlotte-Mecklenburg hearing by the Supreme Court could prove so important. Though a big city is involved, the issue here is not one of de facto versus de jure segregation. Rather the lower courts have concluded that Charlotte's schools are racially segregated as a consequence of racialy segregated housing patterns for which the state has its degree of responsibility. What is at issue is not this fact so much as the remedy that can be ordered under law—which is to say, under the Fourteenth Amendment, the Supreme Court's 1954 and subsequent decisions, and the civil rights statutes on the books. The Charlotte-Mecklenberg school board has claimed that it is not within the realm of physical or economic practicality to reproduce the racial pattern Judge McMillan has in mind, and last May the Fourth Circuit described Judge McMillan's order as unreasonable. There is clearly, then, a considerable body of legal opinion which holds that the creation af a unitary school system does not require the uniform creation of racially integrated schools or presuppose the dissolution of every all-black school in a district. Unless it should rule very narrowly, that is the question the Supreme Court is likely to reach in the Charlotte-Mecklenburg case.

Whatever its ruling, of course, there is every reason to expect that litigation on this question will go on. But you need only look at the state of perplexity in which the South now finds itself—the resignation of the Jackson, Miss., school superintendent yesterday is a case in point—to realize how sorely some guidance is needed from the high Court in the matter. For years—until last October's nonsense decision, in fact—the Court was waiting on the South. Now, in another sense, it is the other way around.

EXHIBIT 10

THE FIGHT TO RETURN PUBLIC SCHOOLS TO STATE AND LOCAL CONTROL

As your United States Senator, I have continually fought to return the control of the public schools of Alabama and the South to State and local governments and to resist federal domination and control.

These goals have been sought through:

1. Support of positive legislation such as that providing for Freedom of Choice, Neighborhood Schools, and by Constitutional amendment returning schools to state and local governments; and by support of such measures as the Stennis Amendment and the Whitten Amendments.

2. Dozens of speeches on the Senate floor pointing out views of people of Alabama on school problems.

3. Dozens of meetings with Alabama parents groups and school officials.

4. Intercession with and protest to President Nixon, HEW and Justice Department officials regarding forced immediate desegregation.

5. Opposition to all legislation discriminating against Alabama and the South.

6. Support of all legislation that would help provide a good education to all citizens.

Listed below in chronological order is a brief résumé to date of some of these actions to which I have referred:

Congressional Record Dated:

February 24, 1969.—A letter to HEW Secretary Robert H. Finch requesting information on the total number of school children deprived of funds and services under orders of the Department of HEW, and the total dollar value of lunches, services, and other benefits withheld from school children in the South. This letter expressed my concern over the actions of HEW that were depriving school children of funds and services provided by taxpayers' dollars.

March 17, 1969.—Introduction of proposed Constitutional amendment to return control of local schools to the states and to the people—Senate speech in support of the proposed amendment.

March 24, 1969.—Remarks on insertion of an editorial from the *Dothan Eagle* critical of the President's nomination of liberal New York school Superintendent, Dr. James E. Allen, Jr., known as "Mr. Busing," as U.S. Commissioner of Education.

May 1, 1969.—Co-sponsored with Senator Dirksen a bill to authorize the Committee on the Judiciary to investigate the impairment of the internal security of the U.S. arising from disorders at educational institutions.

May 5, 1969.—Senate speech in opposition to the confirmation of Dr. James E. Allen, Jr., as U.S. Commissioner of Education and Assistant Secretary of HEW.

June 17, 1969.—Senate speech critical of U.S. Supreme Court decision which approved "racial balance" in the assignment of teachers as a requirement of the U.S. Constitution.

July 14, 1969.—Telegram to HEW Secretary Robert H. Finch condemning disregard by his Department of provisions of the 1964 Civil Rights Act and violation of an act of Congress which *denied* the Department power to spend Federal funds to compel transportation of pupils to achieve racial balance in public schools.

July 14, 1969.—Telegram addressed to President Nixon pointing out contradictions between his campaign statements relating to desegregation of public schools and the actions of his Administration in conflict with laws of Congress and with his statements as a candidate for the Office of President.

July 25, 1969.—Attended meeting at the White House along with other members of the Alabama Congressional Delegation for conference with Secretary Finch and Attorney General Mitchell to protest unfair and unreasonable public school policies promoted by the Administration in Alabama.

July 27, 1969.—Senate speech attacking Department of HEW actions and school plans in Alabama.

August 4, 1969.—Participated in Senate debate in support of the "Whitten Amendment" to deny use of public funds by the Department of HEW for compulsory busing to achieve racial balance in the schools.

September 3, 1969.—Introduction of an amendment to the Department of HEW Appropriations Bill which amendment declared "Freedom of Choice" as a public policy established by Congress—Senate speech in support of the amendment.

September 16, 1969.—Remarks in the Senate on the *Congressional Record* of a nationally syndicated column by James Kilpatrick, entitled "Let's Stop Kicking the South Around."

September 16, 1969.—Remarks in the Senate on insertion in the *Congressional Record* of an editorial from the *Washington Evening Star* which stated in part, "Public officials no doubt can be whipped into line. But whether the same will prove true of large numbers of parents is, we think, doubtful to say the least."

September 22, 1969.—Remarks in the Senate on insertion in the *Congressional Record* of an editorial from the *Montgomery Advertiser* entitled "With Malice and Misinformation," criticizing the U.S. Civil Rights Commission report on desegregation in the South.

September 26, 1969.—Sent a detailed letter to HEW Secretary Robert H. Finch condemning the application by his Department of dual standards in the interpretation and administration of the laws of Congress. Under dual standards in the Department treated racial imbalance in public schools of the South as unconstitutional while even greater racial imbalance in schools outside the South was considered of no concern to the Department of HEW.

September 29, 1969.—Senate speech condemning dual standards as applied to southern schools. The speech is documented with correspondence from me directed to Presi-

dent Nixon and HEW Secretary Robert H. Finch, demanding compliance with the laws of Congress which prohibits the use of HEW funds for compulsory busing to achieve racial balance in public schools.

September 30, 1969.—Remarks on insertion in the *Congressional Record* of a letter from a concerned parent in Montgomery, Alabama. This letter was an eloquent appeal for common sense approaches and simple justice for school children in the desegregation process.

October 14, 1969.—Senate speech condemning the almost unbelievable chaos and ruin of the public schools of Choctaw County, Alabama under a fantastic desegregation plan prepared by a hired agent of the Department of HEW and submitted as the plan of an "education expert" on the basis of a one day visit to Choctaw County, Alabama.

October 16, 1969.—Participated in Senate debate in support of the "Fair Play" Stennis Amendment demanding an end to dual standards and discrimination against the South in applying desegregation plans throughout the nation.

October 30, 1969.—Speech in the Senate criticizing the U.S. Supreme Court "Instant Integration" decision in the Mississippi school cases.

November 5, 1969.—Co-sponsored with North Carolina Senator Sam Ervin a bill to amend the Civil Rights Act of 1964 by adding a new title, which restores to local school boards their constitutional power to administer the public schools committed to their charge.

December 2, 1969.—Remarks in the Senate on insertion in the *Congressional Record* of an article published in the official publication of Mobile Jaycees entitled "A Jaycee Speaks Out on Federal Interference in Public Education."

December 17, 1969.—Senate debate on my "Freedom of Choice" Amendment. The Amendment was attached to the Appropriations Bill for the Department of HEW and declared, among other things, that the freedom of parents to choose the school to which they shall send their children is an inviolate right, the protection and maintenance of which is part of the public policy of the United States.

January 26, 1970.—Jointly sponsored with Mississippi Senator James Eastland a bill to compensate local school boards for cost of schools ordered closed or abandoned as a result of coercive actions of Federal Courts and agencies—In a Senate speech in support of this bill it is pointed out that schools valued in excess of $100 million have been closed in Alabama alone.

January 26, 1970.—Jointly sponsored with Senator Eastland a bill to preserve the tax exempt status of, and the deductibility of contributions to private schools.

January 26, 1970.—Senate speech and debate criticizing U.S. Supreme Court for misuse of equity powers in desegregation cases.

January 27, 1970.—Co-sponsored Mississippi Senator John Stennis' "Fair Play" Amendment requiring the Department of HEW to deal uniformly in all regions of the U.S. with respect to desegregation of public schools.

January 30, 1970.—Co-sponsored with Senator Ervin an amendment to the Civil Rights Act of 1964 to permit "Freedom of Choice" in student assignments.

February 2, 1970.—Co-sponsored with Senator Ervin an amendment to the 1964 Civil Rights Act to prohibit the Department of HEW from withholding or threatening to withhold federal financial assistance to public schools operating under the principle of freedom of choice.

February 2, 1970.—Co-sponsored with Senator Ervin a bill to prohibit the use of public funds for busing pupils to alter the racial composition of schools.

February 2, 1970.—Co-sponsored with Senator Ervin an amendment to permit local school boards to bring civil actions against agents and agencies of the U.S. for violating certain laws relating to operation, management, and control of local public schools.

February 2, 1970.—Co-sponsored with Senator Ervin an amendment to the 1964 Civil Rights Act to deny Federal Courts jurisdiction and power to make changes in the racial composition of the student body of any public school.

February 3, 1970.—Co-sponsored with Senator Stennis an amendment to permit assignment of children to public schools in the manner requested or authorized by their parents or guardian.

February 8, 1970.—Participated in a Concerned Parents rally of some 15,000 parents in Birmingham. Governor Wallace, Representative John Rarick of Louisiana, Representative Bill Nichols, and Representative Walter Flowers of Alabama and I spoke and pledged our full support in an effort to obtain equal treatment and simple justice for the public school children of Alabama and the South.

February 9, 1970.—Senate speech in support of the above amendments.

February 9, 1970.—Senate speech pledging full support of principles announced by Southern Governors at a Mobile, Alabama meeting held to plan cooperative efforts in resisting ruinous public school policies enforced by Federal Courts and the Nixon Administration.

February 10, 1970.—Participation in Senate debate in support of Freedom of Choice Amendment.

February 16, 1970.—Co-sponsored with Senator Ervin a bill denying power to any Court, Department, agency, officer or employer of the United States to refuse any child the right to attend the public school nearest his home.

February 16, 1970.—Co-sponsored with Senator Ervin an amendment to prohibit transportation of school children to achieve racial balance in schools.

February 16, 1970.—Co-sponsored with Senator Ervin an Amendment to prohibit compulsory assignment of school teachers to schools other than the school in which any such teacher contracts to serve.

February 17, 1970.—Participation in Senate debate on Stennis Amendment.

February 17, 1970.—Participation in Senate debate in opposition to the "Scott Amendment" to perpetuate dual constitutional standards for desegregation on a sectional basis.

February 18, 1970.—Participation in Senate debate in support of the Stennis and Ervin Amendments.

February 19, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of a letter from a concerned mother published in the *Alabama Farmer* and entitled "God Help Our Court-Conducted Schools."

February 19, 1970.—Senate speech severely criticizing the role of Federal Courts in exercising control of local public schools.

February 25, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of a letter from a concerned parent from Tuscaloosa, Alabama.

February 28, 1970.—Participation in Senate debate in opposition to the "Scott Amendment" to destroy freedom of choice.

February 28, 1970.—Participation in Senate debate in opposition to the "Mathias Amendment" which would destroy freedom of choice.

March 13, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of an editorial written by Father Daniel Lyons published in the *Twin Circle*, entitled "The Big Yellow School Bus."

March 18, 1970.—Senate speech pointing out new efforts by the Department of HEW to control institutions of higher education and junior colleges in Alabama, and my opposition to these policies.

March 24, 1970.—Participation in Senate debate in support of the Stennis Amendment.

March 25, 1970.—Participation in Senate debate in support of the Stennis Amendment.

April 1, 1970.—Senate speech and debate in support of the Stennis Amendment.

April 8, 1970.—Co-sponsored a proposed Constitutional amendment to permit voluntary prayers or meditation in public schools and other public buildings.

April 30, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of a letter from Hon. Virgil Nolan Price, Superintendent of Tallapoosa County schools, relating to $1 million worth of school buildings closed and abandoned in the county pursuant to Federal Court orders.

May 4, 1970.—Conference held in Washington with superintendents of public school systems of Autauga County, and Ozark, Huntsville and Enterprise on important education problems.

May 7, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of a *Readers Digest* article entitled, "Our Troubled Schools."

June 4, 1970. Remarks on insertion in the *Congressional Record* of an editorial from Camilla, Georgia entitled "More Money Not Complete Answer."

June 15, 1970.—Remarks in the Senate on announcement of resignation of Dr. James E. Allen, Jr. including insertion in the *Record* of my original reasons for opposing the confirmation of Dr. James E. Allen as U.S. Commissioner of Education and Assistant Secretary of the Department of HEW.

June 24, 1970.—Participation in debate on the HEW Appropriations Bill in support of the Stennis Amendment.

June 25, 1970.—Participation in Senate debate in support of the Stennis Amendment.

July 14, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of a David Lawrence column relating to discriminatory treatment of private schools in the South.

July 15, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of the legal brief prepared by the Department of Justice in support of the tax exempt status of private segregated schools and the deductibility of contributions made to such schools. This brief was filed prior to the reversal of policy by the Nixon Administration.

July 16, 1970.—Remarks in the Senate on insertion in the *Congressional Record* of a letter from Hon. J. C. Davis, Mayor of the City of Chickasaw, Alabama and article written by Dixie Wright and published in the Mobile, Alabama *Press Register*. Both the letter and the article deal with recent Federal Court school plan imposed on Mobile County schools.

July 23, 1970.—Remarks made in the Senate on insertion in the *Congressional Record* of an editorial published in the Montgomery Alabama *Advertiser-Journal* relating to the tax exempt status of private schools. In these remarks I give required notice to the Senate that when an appropriate revenue measure comes. before the Senate from the House of Representatives I will offer amendments authorizing the continuation of the tax exempt status of all private schools and the continued deductibility of contributions to such schools.

July 28, 1970.—Senate speech in support of the Senate-House Conference Report which upheld provisions of the Whitten Amendment as enacted originally by the House of Representatives.

August 3, 1970.—Participation in Senate debate on a bill to clarify and help resolve conflicts in decisions of various U.S. Federal District Courts and U.S. Circuit Courts of Appeal as they relate to provisions of the Whitten Amendment and to uniform application of desegregation standards throughout the nation.

August 4, 1970.—Senate speech relating to

visit of Senator Mondale to Alabama in apparent conflict with duties assigned to his Select Committee on Equal Educational Opportunity. The Committee was authorized by Congress to study the problem of desegregating schools outside of the South. Instead, Senator Mondale conducted one-day whirlwind surveys in Prattville, Alabama; Homer, Louisiana; and Uvalde, Texas. Senator Mondale's conclusions based on his supposed investigation is commented on and illustrated with editorial opinion from Alabama newspapers.

August 6, 1970.—Conference with Assistant Attorney General Jerris Leonard at U.S. Justice Department concerning chaotic school conditions in Alabama.

EXHIBIT 11

[From the CONGRESSIONAL RECORD, Oct. 14, 1969]

HEW THREATENS DESTRUCTION OF CHOCTAW COUNTY, ALA., SCHOOL SYSTEM

Mr. ALLEN. Mr. President, the public school system in Choctaw County, Ala., has a responsibility for educating close to 5000 children and it is threatened with destruction. This tragic situation is one wholly contrived by Federal Courts and the U.S. Department of Health, Education, and Welfare.

The Congress of the United States has an interest in and a responsibility in this matter because many of the unbelievably wierd things which have taken place in Choctaw County are supposedly authorized by legislation enacted by Congress and are being financed from funds provided by Congress. Let me briefly state the background.

Mr. President, most Federal courts in the south have washed their hands of responsibility for destructive effects of their racial edicts and decrees relating to public school education in the Southern States. This washing of hands is typified in the language used by the Court of Appeals for the Fifth Judicial Circuit in absolving the court of blame for consequences:

"The Department of Health, Education, and Welfare, with its staff of trained educational experts with their day to day experience with thousands of school systems is far better qualified to deal with such operational and administrative problems than the court presided over by judges who do not have sufficient competence—they are not educators or school administrators—to know the right questions much less the right answers."

This is from the Court of Appeals for the Fifth Judicial Circuit—the court that has passed on many of these questions in the Southern States.

Mr. President, Federal courts now request the Department of Health, Education, and Welfare to accept responsibility for working out plans to overcome racial imbalance in particular school jurisdictions which are already desegregated but which fail to produce the racial balance demanded by Federal courts.

Mr. President, this procedure might appear at first glance to be reasonable and one suggested by consideration of the education of the children involved. However, experience demonstrates that agents of the Department of Health, Education, and Welfare who undertake this role for Federal courts are neither education experts nor are they experienced in planning sound education programs. As a matter of fact, it has been made abundantly clear by now that these people are concerned only with devising plans to achieve racial balance in the schools.

Mr. President, one of these so-called experts was sent by HEW into Choctaw County, Ala., to prepare a plan on request of the Federal district court. Let us take a look at the procedures used by the HEW experts and examine the plan to see if it can be justified in terms of education standards or criteria.

This expert spent all of one single day riding over the county viewing schoolbuildings and collecting enrollment figures for the prior school year. None of his valuable time was spent in consultation with any member of the local board of education. No time was wasted with such mundane things as inquiring about the sources of school revenue and school budgets or determining whether or not funds were available to the local board to implement any sort of plan. Transportation facilities were not inspected or even considered. Neither parents, pupils, nor teachers were consulted or even interveiwed. No thought or effort was given to determining whether or not the public might support the plan.

The plan was presented to the Federal district court as one prepared by an education expert paid for and approved by the U.S. Department of Health, Education, and Welfare, and it was panned off on the public as the work of an education expert and one that presented a sound plan from the standpoint of educational considerations. In doing so, the people were deceived, and it is my judgment they were defrauded. In support of this judgment, I submit the following facts for consideration by the Senate and the public.

First of all a question concerning the qualifications of the expert must be disposed of. There is reason to believe that his education might have been deficient in geography if nothing else because in the plan presented to the court he referred to Choctaw County, Ala., as being a Louisiana parish and to a Louisiana university as the source of assistance to local boards of education in implementing the plan. At another place in the plan, Choctaw County, Ala., is referred to as being located in Mississippi. Of course, this is not conclusive evidence of a deficiency in the expert's knowledge of geography, it could be evidence of a disorientation as to time and place. This last conclusion is supported by a substantial amount of additional evidence throughout the plan.

On the other hand, I have been assured by the Department of Health, Education, and Welfare that this particular expert is not deficient in his knowledge of geography and that he is in touch with reality. If we accept these assurances, there is but one remaining conclusion assessable from the facts. That is that the plan presented by this expert as being one designed to meet the local education requirements of the schoolchildren of Choctaw County, Ala., was not that at all but rather a plan drawn up by somebody for Louisiana and Mississippi schools and panned off on the Federal district court and the public in Alabama as the result of an in depth study of local conditions by an education expert.

I think this last explanation to be most likely. It demonstrates conclusively that the plan was not designed on the basis of education considerations in Choctaw County, Ala., but only as a sham to meet the single racial balance criteria.

This is the point I want to emphasize. The so-called plans submitted by so-called education experts of the Department of Health, Education, and Welfare in Alabama and in the South are not even remotely concerned with improving educational opportunities for anyone but have the sole objective of overcoming racial imbalance in the public schools. Yet, Mr. President, Federal statutes forbid such activities by the Department. Even a disoriented education expert in the Department of Health, Education, and Welfare can understand the plain language of the statute which states that the Department shall not spend funds appropriated to it by Congress for the purpose of seeking to overcome racial imbalance in schools.

Mr. President, if the Department were merely violating the law, a remedy would be readily available. But the Department is doing more than that. It is also rejecting education standards in formulating plans it submits to Federal courts and because of that the Department is systematically destroying public school education in the South.

Mr. President, let me demonstrate just how completely these disoriented education experts disregard sound education criteria in formulation of plans to be enforced by Federal courts.

Two high schools in Choctaw County, Ala., are—or were—accredited by the Southern Association of Secondary Schools and Colleges. The association is the highest accreditation agency in the South. Four additional high schools in the county were accredited by the State of Alabama. One school was not accredited by either of these agencies.

Now, the expert submitted his plan, supposedly the result of an in depth study and evaluation, and proposed abandonment of the two high schools enjoying the highest accreditation and recommended to the court that the one school with no accreditation should be retained. Such idiocy can be understood only when it is realized that these people are not concerned about educating the children but only with plans to achieve racial balance in the schools.

Mr. President, this is a type of plan which no Senator would tolerate in his own State. It is the type of plan which no Federal judge and no education expert in the Department of Health, Education, and Welfare would recommend for a school system for their own children. This is the type of plan which the U.S. Attorney General sends so-called civil rights lawyers into Federal courts to defend as educationally sound and in the best interest of all the children of the school district.

This is the type of plan which the Department of Health, Education, and Welfare brags about as representing "the services of professional educators at the Office of Education in the Department of Health, Education, and Welfare." And this is the disgraceful sham of a plan which is being imposed upon the schoolchildren throughout the Southern States. The injustice and stupidity of it makes the blood boil.

Mr. President, that is not all. The evidence of willful, reckless, and wanton disregard for the education and welfare of children in the South continues to unfold in one sorry episode after another. These demented experts from the Department of Health, Education, and Welfare come up with plans which are physically impossible of implementation. How are school boards supposed to bus pupils all over the county without school buses? How are they to buy school buses without the money to pay for them? How are they to borrow money without authority to borrow it? Who is going to lend a school board money when anyone can see that the board is being driven to bankruptcy and ruin? Where is a school board to get the money to tear down and rebuild and convert schools as recommended by HEW incompetents posing as education experts?

The truth is that these helpless school systems are dealing with people who do not care enough about education or the welfare of the children involved to consult with local school officials, or even inquire about the financial resources of the county. They slap down a fantastic plan as a temporary expedient without a second thought about the future of public education in the areas.

Consider this. To implement the plan submitted for Choctaw County, Ala., would unconditionally bankrupt the school system. Let me show why this is so.

In Alabama, the major portion of the public school funds for rural schools comes from the State. State funds are allocated under an equalization formula which takes into account a number of factors, but the amount received is largely determined by the number of pupils in average daily at-

tendance. In round figures Alabama provides close to $400 per pupil in average daily attendance. Consequently, if a school system loses half of its enrollment, it will lose half of its support from the State. Fixed operating expenses of the system remain fairly constant so any loss of operating funds must be absorbed by reduced operating expenses. That means fewer teachers and less equipment, supplies, and less money for transportation. It means no more capital expenditures which would add fixed costs.

Since September of this year, the Choctaw County school system has already lost close to 1,000 pupils. As a result, it stands to lose approximately one-fifth of its operating funds. As the cutback is applied more and more will drop out because of the inability of the system to maintain an adequate education program.

Under these circumstances, the idea of trying to compel local boards to buy more buses and to assume the added cost of the fantastically expensive business of busing pupils hither, thither, and yon over the country—is the epitome of absurdity.

Mind you—all of this for the sole purpose of overcoming racial imbalance in the schools. These people are not talking about desegregation, a term which after 15 years the Supreme Court has never gotten around to defining and which Congress has not defined except to say that whatever it means, it does not mean that Congress delegated to the Department of Health, Education, and Welfare the power to overcome racial imbalance in public schools. These people are not talking about a unitary school system. Alabama has a unitary school system and it has desegregated schools. These racial experts in the Department of Health, Education, and Welfare and sociologists in the Federal courts are concerned with but one thing and one thing only, and that is racial imbalance in schools and both have demonstrated that they do not care about alienation of public support of education or the ruin and wreck they leave behind.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ALLEN. Mr. President, I ask unanimous consent that I be permitted to continue for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Alabama is recognized for an additional 5 minutes.

Mr. ALLEN. Mr. President, unless the Department of Health, Education, and Welfare gets rid of its quacks and disoriented experts and unless some evidence of commonsense and human compassion can be demonstrated by these people—the public schools of the South are on the way out. It is only a question of time. It is difficult to convey in words a sense of the depth of the feeling of the people on this subject, dealing as it does with matters relating to the health, safety, and welfare of their children. In most rural areas of the South the public schools are community schools. Most contain the first through the 12th grades in a single school building. In most, the parent-teacher associations and civic clubs and other organizations contribute substantial funds and services to provide improvements in school programs and facilities.

Children in the same family naturally attend the same school from the first grade through the 12th grades. Under the irrational racist plan submitted by the befuddled HEW expert, some children in the same family would have to be bused to four separate schools before they finish the ninth grade. Some children would be compelled to ride buses for distances up to 90 miles and spend up to 4 hours a day riding a school bus. Under the bankruptcy producing plan sponsored by and recommended by the Department of Health, Education, and Welfare, school libraries, science laboratory facilities and fixtures, improved playing fields would be abandoned and converted to other uses. School bands, glee clubs, and honorary societies would be disbanned. High school seniors who have already purchased their class rings would be scattered and bused into different high schools. Many teachers who have invested life savings in homes in local communities would be displaced and ordered to accept dictation as to where they will teach or else quit teaching. Cherished teacher tenure rights secured by law are ordered sacrificed.

Local school board members are ordered to abandon their sworn duty and moral obligation to children and the communities and to implement plans and decrees imposed by total strangers and which are contrary to reason and commonsense and contrary to their best judgment under pain of confiscatory fines and imprisonment. In short, the will and wishes of parents and teachers are overridden and conscientious public servants are compelled to preside over the liquidation of the public school system to which they have dedicated their lives. That an agency of Federal Government is the author of this ruin is a tragic fact.

Yes, Mr. President, it is a tragedy. It is an appalling tragedy. That a situation such as this could have developed in our Nation is cause for grave concern.

One cause for concern lies in the fact that Federal officeholders claim a power to impose racial solutions and another concern is the readiness to use calloused means to impose and enforce those solutions in local public schools.

Consider the weapon of deprivation used against innocent children by Federal officials. Federal funds used to provide hot breakfasts and lunches and education benefits for children of the poor are ruthlessly withheld by the Department as a means of enforcing its racial solutions. These HEW brutalitarians have become immune to the use of this hideous weapon and like a vice in the words of Pope, "We first endure, then pity, then embrace," it. The weapon of deprivation is embraced by the Department and its use is stoutly defended by the Department. Just a week or two ago, Secretary Finch announced his intention to oppose efforts of Congress to deprive him of this weapon.

Yes, Mr. President, this is a matter of deep concern, and the role Federal courts play in this experiment in racism is cause for concern, and resort by Federal district courts to injunctions to enforce racial decrees is a cause for concern. And it is cause for concern when Federal district courts threaten elected public officials with confiscatory fines and imprisonment without benefit of trial by jury to compel unwilling public officials to execute racial decrees handed down by the courts.

Of course, some will say that there is a vast difference between compulsory integration of races and compulsory extermination of races. Indeed, there is a vast difference. But there are also similarities. In both instances the decrees are racial and the end is rationalized by a social collectivist theory. In both instances the decrees are enforced by the coercive powers of Government. In both instances there is an attempted evasion of moral responsibility for the consequence by washing of hands by courts and shifting the responsibility to the collective will of the State. In both instances there is a ruthless disregard for the custom, tradition, and belief of a minority. In both instances the methods of implementation—deprivation of innocent children, confiscatory fines, imprisonment of public officials—are inhumane and barbaric. Furthermore, one might reasonably ask if the principal difference between State enforced extermination and State enforced integration is not in the long run but a difference in the time it takes to achieve the same end.

Yes, Mr. President, these are causes for concern. We had better back up and take a hard look at these sad, tragic, and dangerous trends.

American people are beginning to ask once again, where do we draw the line on Federal powers? When do we draw the line? Are we prepared to accept as a principle of constitutional law the right of Federal agencies to withhold necessities of life from citizens of this Nation as a legitimate means to any end? Are 12 million more Americans to be placed under the mercy of HEW brutalitarians who withhold food from the mouths of children as a means of enforcing regulations? Are we prepared to accept the principle of rule by injunction over the lives of our children?

Mr. President, much more could be said on this subject and much more should be said. Doubtless, much more will be said. I am going to close these remarks by saying that the Department of Health, Educatiton, and Welfare has demonstrated incompetence and stupidity in its performance in Choctaw County, Ala., and throughout the South.

It is clear to me that Federal courts and these HEW incompetents are hung up on the silly absurdity of the racial balance as some kind of panacea that will instantly equalize educational opportunities.

Mr. President, the people of no civilized nation on the face of this earth believe it. And there is no evidence or other reason to believe it. Other nations considered racial balance and the idea has been rejected as both irrational and impractical. More and more black citizens are also beginning to realize that racial balance is not worth a row of beans from the standpoint of improving education opportunities. In fact, there is no responsible evidence from any source to indicate that racial balance contributes anything constructive in the way of equalizing educational opportunities. On the other hand, there is overwhelming evidence from throughout the United States that arbitrary actions to achieve racial balance in schools are dismal flops and costly failures.

Mr. President, the U.S. News & World Report, in its issue of October 13, 1969, has published the results of a nationwide survey on the subject of busing to achieve racial balance. The survey shows conclusively that this arbitrary and artificial device is being rejected throughout the United States as too costly, impractical, and devoid of education benefits.

Mr. President, I ask unanimous consent that the article from the U.S. News & World Report be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD.

[From U.S. News & World Report, Oct. 13, 1969]

WHY SCHOOL BUSING IS IN TROUBLE

Once, only a few years ago, busing was being hailed by civil-rights leaders as the answer to Northern-style segregation—the so-called *de facto* segregation that occurs when children living in all-black or all-white neighborhoods attend neighborhood schools.

The idea was to bring about racial mixture in the classroom by busing children back and forth—bus Negro youngsters out of their black neighborhoods to schools in white areas, and bus white youngsters to schools in black areas.

There was opposition, often bitter. Battles over busing split many communities. But opponents, frequently denounced as racists, lost in city after city. And the idea spread. Busing has been adopted as an integration method in scores of cities around the U.S.

Now, however, attitudes are changing. The tide of the battle appears to have turned—against busing.

This new trend shows up in a nationwide survey by members of the staff of "U.S. News & World Report." According to that survey:

Among civil-rights leaders, educators and

Negroes themselves, doubts are growing about the value of busing, either as method of integration or as a method of improving education.

Interest is growing in a different idea—that Negroes may benefit more from an improvement of schools in their own neighborhoods than they do from being bused into white schools.

You find this change in many cities.

"A definite change." In Baltimore, Associate Superintendent of Schools William Tinderhughes told "U.S. News & World Report":

"There has been a very definite change in thinking about busing for integration in recent years. A few years ago, there was demand for busing. But not now.

"Parents now are more concerned with the quality of the education that their children are getting. The same group that at one time was speaking for integration now is speaking about curriculum, about teachers and about the quality of the educational program."

In Chicago, Assistant Schools Superintendent David J. Heffernan said this:

"The integration battle now has taken a different turn. Busing, as such, is almost completely out of the picture. It has proved effective neither for integration nor for better education."

In Minneapolis, this comment came from Floyd Amundson, school-board consultant in community relations:

"The trend here is away from busing because it doesn't solve anything. The blacks themselves apparently would prefer to have their own schools improved rather than have their children bused to mostly white schools."

On the West Coast, a school official in Los Angeles reported:

"Fewer blacks have been showing up at board meetings to demand integrated schools this year. The 'Black Power' movement, with its emphasis on the isolation of black people, may have something to do with it."

"Climate has changed." The trend toward racial "separatism" shows up in several places. In Pittsburgh, John March, director of public relations for the board of education, said this:

"The climate has changed. The most militant, outspoken blacks are not interested in integration. They want separation. You wonder how you can justify busing under these conditions.

"This puts the school boards right in the middle. We are under pressure from the State Human Relations Commission to desegregate. But the militants don't want it. The children even segregate themselves in our high-school cafeterias. We have separate black and white areas that the blacks are mostly responsible for creating. The old rules just don't seem to work any more."

Black separatists, however, are far from being the chief causes for the diminishing popularity of busing.

Civil-rights leaders with long and strong commitments to the cause of integration are questioning the value of the bus. One is James Farmer, former head of the Congress of Racial Equality (CORE) who now, as Assistant Secretary of Health, Education and Welfare, is the highest-ranking Negro in the Nixon Administration. Mr. Farmer announced last March that he had changed his mind on integration by bus. He said:

"Our objective should be to provide a high-quality education. The real problem is not integration or segregation. It is the quality of education. Busing is not relevant to high-quality education. It works severe hardships on the people it affects. In the South, I found blacks complaining of being bused to school."

Where busing works. All this does not mean that busing is being abandoned as a way of integration.

In a number of smaller cities, where black pupils are a minority, busing has worked with considerable success in improving what educators call "racial balance." It has been accepted without serious protest in many such cities.

One city which advocates of busing cite as an example is Berkeley, Calif. There, in a city of 121,000 population, 3,500 pupils—whites and blacks—are "cross-bused" to achieve in each school a racial mix that is almost in exact proportion to the city's school-age population: 49.6 per cent white, 42.8 per cent black and 7.6 per cent Oriental or American Indian. Complaints are mostly over the cost: $530,000 a year for the total integration program, with $204,000 for the actual busing.

Another success story is told in Elmira, N.Y., a city of approximately 50,000 population, with 1,000 Negroes among 14,000 school students. There some 300 white and 200 black pupils are bused outside their home areas to balance enrollments racially. Elmira's Superintendent of Schools Charles E. Davis reported:

"Our troubles have been few. Our over-all conclusion is that no one has suffered and many people are gaining.

"I think that in any moderate-sized city with a relatively small black population, some plan similar to ours could be made to work."

The New York story. It is in larger cities or in cities with big proportions of Negroes in the schools that busing encounters its greatest problems.

New York City, where the whole busing experiment started a dozen years ago, has had more turmoil than success.

That city has tried almost every integration device known—busing, school "pairing," "open enrollment," redrawing of school-attendance districts, even elimination of junior high schools and substitution of new "intermediate" schools to draw youngsters from wider areas of the city at an earlier age.

Busing alone costs New York City some 3 million dollars a year.

After all this effort there is more segregation, not less. There are more all-black or nearly all-black schools in New York today than there were before. And tests have shown no clear academic gains among children who are bused.

New York's integration attempts have stirred massive protests, have been the targets of numerous lawsuits. Many thousands of white parents have moved out of the city to suburbs.

Now Negroes and Puerto Ricans outnumber white in the city's schools.

New York, however, is still trying. About 14,500 pupils are riding chartered buses under "free choice—open enrollment" programs designed to improve "racial balance."

In New York State, outside New York City, the State education department reports that 30 to 35 school districts have systems for correcting "racial imbalance." Most involve busing.

Much of New York State's integration effort is made under pressure of a policy laid down by former State Commissioner of Education James E. Allen, who now is U.S. Commissioner of Education in the Nixon Administration. For New York, he defined any school more than 50 per cent Negro as "racially imbalanced," and ruled "there must be corrective action in each community where such imbalance exists."

New York State's general assembly, however, put restrictions on forced integration with a so-called "antibusing" law which was passed last spring and went into effect September 1.

That law forbids appointed school officials or boards to change district boundaries or pupil-assignment plans for the purpose of changing racial balance without consent of parents. This requires programs to be voluntary in many cities, including New York City.

Massachusetts is another State that requires local action against "racial imbalance." State aid can be cut off from schools over half Negro.

Boston, with a number of predominantly Negro schools, is busing about 2,000 pupils at public expense to comply with this law. About 5,000 other pupils are riding buses at their parents' expense in a program of "open enrollment."

Boston also has a new "magnet" school in a Negro area that draws 340 white children—by bus—to take advantage of the special facilities it offers.

All of Boston's bus riders for integration are volunters. Parents have protested angrily against busing in the past. Mrs. Louise Day Hicks, a leading opponent of busing while head of the school board, recently led all candidates in a preliminary election for the city council.

Cities that balk. Several large cities with districts that are heavily Negro have refused to follow New York's example of massive busing.

Despite years of heated demands by civil-rights groups, the Chicago school board has insisted on maintaining the "neighborhood school" concept, which results in dozens of schools being nearly all-white or all-black.

The sole busing program there is a small one to relieve overcrowding.

Instead of busing, the school board plans to erect a series of "magnet" schools where specially trained teachers will use the latest methods and equipment to teach a cross-section of children of all races and economic levels.

In Philadelphia, this report came from Oliver Lancaster, assistant director of the board of education's office of community affairs:

"We have no pressure—from either whites or blacks—for massive desegregation. It isn't possible to make the massive shifts it would take to accomplish that quickly. Our trend is toward quality schools."

At present, Philadelphia's only busing is to relieve overcrowding in some black schools. A proposed program for integration would involve some busing. But it stresses improved schools—and some specialized schools—in Negro areas to attract white pupils.

Pittsburgh and Baltimore also bus primarily to relieve overcrowding. But the result usually is the mixing of more Negroes into white schools.

California opposition. In California opposition to compulsory busing for integration is mounting steadily. A Statewide campaign is under way to place on the November, 1970, ballot a proposal to prohibit such busing.

San Francisco may win the right to elect its school board, mainly as a result of opposition to an integration plan recently adopted by the city's appointive board. That plan calls for busing 4,500 pupils next year.

The Concerned Parents Association has succeeded in putting the proposal for a school-board election on the November 4 ballot. Its hope is to elect enough advocates of "neighborhood schools" to block the busing program.

San Francisco's Mayor Joseph Alioto is on record against the busing plan, saying:

"I don't believe the black community wants it. I don't believe the white community wants it."

In nearby Richmond, voters last April elected three school-board members who campaigned against a forced-busing plan. The new board has replaced the force plan with one which calls for voluntary busing on a smaller scale.

In Pittsburg, Calif., five Negro families have sued to block busing of their children to white schools. They say they prefer an integration plan that does not put "the entire burden on the Negro pupils."

Sausalito has integrated its schools by a program of busing both white and Negro pupils. Schools costs have skyrocketed, and

some families have sought to transfer out of the district.

Los Angeles has a voluntary busing program which some hail as a success, others as a failure. It affects fewer than 1,000 pupils and was adopted under pressure of threatened suit.

California's State board of education has ruled that any school is "imbalanced" if its minority enrollment varies more than 15 per cent from the percentage of minority students in the school district.

In Los Angeles, school authorities estimate that 160,000 students would have to be bused at an initial cost of 100 million dollars, followed by a yearly cost of 20 million, to comply with the letter of that ruling. Most school officials take the position that the State board's ruling has no force as law.

Colorado controversy. Denver has been torn by a controversy over busing. The school board adopted an integration program calling for transfers of several thousand children—both black and white. Voters then elected two new board members who swung a vote to rescind the prorgam. But advocates of busing sued and won the program's temporary reinstatement. Now the busing is being done despite continued protests.

Michigan's problems. In Michigan, there may be as many as 70 school districts that bus for racial balance.

One city that does is Grand Rapids. There, about 1,500 black students ride buses from their black-neighborhood homes to schools that are mostly white. And busing has become a focal point of discontent with the school system.

White parents helped elect three opponents of busing in a bitter school-board election last spring.

When classes opened this autumn, a group called Blacks United for Survival (BUS) organized a temporary boycott of the schools. Busing was not the only issue. Some Negroes demand a complete return to neighborhood schools. Some object to "one-way busing" and want whites bused, too. Others complain that the plan does not provide enough integration. Still others demand more emphasis on quality of education.

Here, in a single community, you find most of the problems and controversies that beset busing as a means of integrating Northern schools.

Views in Washington. It is not only in cities that busing is losing favor. It has acquired some powerful opponents in the Federal Government, too.

President Nixon recently said, "It's never been the policy of the Administration to impose busing as a way to achieve racial balance." In his 1968 election campaign he criticized busing as "forced integration rather than putting emphasis on education."

Congress has forbidden the Department of Health, Education and Welfare to require busing in order to overcome "racial imbalance."

Representative Edith Green (Dem.), of Oregon, a member of the House Education and Labor Committee, is known as a civil-rights supporter. In an interview in "The Urban Review," she said:

"I seriously question busing for social reform—taking a youngster from a disadvantaged home in a ghetto area . . . transporting him to another school where he spends five or six hours of the day and then is picked up and taken back to the same disadvantaged home, the same tenement area. I have serious questions of how much we're really helping that child."

What Negro parents "are entitled to," Representative Green suggested, is "quality education for their children in the area in which they live."

EXHIBIT 12

DEPARTMENT OF HEW PLANS IN MOBILE, ALA.

Mr. ALLEN. Mr. President, I speak today for the people of Mobile and for the people of Alabama. The Department of Health, Education, and Welfare, through its actions in Mobile, Ala., is violating laws of Congress, and we demand that the executive branch of the Federal Government, and every department in it, be compelled to obey the law.

I have just returned from a visit to Mobile, where I opened a fourth office in Alabama; the purpose of these offices being to serve more effectively the people of Alabama and to keep informed of issues uppermost in the minds of the people.

Mobile is a thriving port city with a metropolitan area population of about 300,000 people. While in Mobile, I had the honor and pleasure of addressing the Alabama Bar Association at its annual meeting in Mobile. Accordingly, I had the opportunity to talk with hundreds of Alabama citizens and responsible leadership of the city of Mobile and of the State of Alabama.

Mr. President, the people of Mobile and of the State of Alabama are outraged by actions of the Department of Health, Education, and Welfare in Mobile which are in clear violation of the law and which defy the expressed will of Congress. We have a right to be outraged. The public schools and public education are at stake. The welfare of their children is at stake. We have a right to demand action by Congress.

Mr. President, storm clouds are on the horizon—a storm is brewing in this country. The eye of that storm may turn out to be Mobile, Ala., where the Department of Health, Education, and Welfare has submitted detailed school plans which call for closing of some schools, for building others, for mass conversion of schools for purposes other than those they were constructed to serve—such as changing elementary schools into junior and senior high schools and vice versa, necessitating expensive renovations. These plans require gerrymandering of attendance zones in order to achieve racial balance at the expense of sound educational and practical considerations. The plan calls for busing at least 15,000 more students than are presently bused in the public school system in Mobile County, Ala. In addition, the plan calls for assignment of faculty and administrative personnel on the basis of race and an implied threat of dismissal of teachers who refuse such assignment.

Mr. President, not less than three provisions of the statutes under which the Department operates have been utterly disregarded in the formulation and implementation of an unprecedented 26-page plan for Federal takeover of public schools of Mobile County, Ala., by the Department of Health, Education, and Welfare. Consider these provisions of the Civil Rights Act of 1964:

"Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.

"Nothing contained in this Title shall be construed to authorize action under this Title by any department or agency with respect to any employment practice of any employer . . . except when a primary objective of the federal financial assistance is to provide employment."

In addition, Mr. President, the 1968 appropriations bill for the Department of Health, Education, and Welfare specifically provides:

"No part of the funds contained in this Act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance."

Mr. President, is it any wonder that the highly respected Mobile Register should have editorially declared in this connection:

"HEW's 'plan' for the public school system of Mobile County is in reality a formula for the destruction of the system of public education in this county. It is a brutal bureaucratic atrocity of which no responsible agency of government would be guilty.

"For the first time in American history, an instrumentality of government in Washington, D.C., has gone so stark wild that it openly calls for violation of federal law to destroy a public school system.

"Its ruthless, reckless, destructive, law-defying scheme would virtually reduce the system of public education in this county to a daily clutter of pupil-hauling buses operated as one segment of the bankruptcy-producing expenditures to which the school system would be subjected as an inevitable necessity to compliance.

"What travesty, what mockery, what hypocrisy, what outrage perpetrated against the public intelligence . . . (by the action of) HEW."

Mr. President, I concur in these sentiments. The vast majority of the people of Mobile and of the State of Alabama concur in them, and they are convinced that the Department of Health, Education, and Welfare, if not checked, will destroy the public school system of Alabama. This conviction is not without substance.

Imagine, if you will, Mr. President, a Federal agency issuing 126 pages of rules and regulations governing the administration of local public schools of a county. This despite the 1968 declaration by Congress that the Department should not use funds appropriated by Congress to force busing of students, to abolish any schools, or to force any student attending an elementary or secondary school to attend another school against the choice of his parents in order to overcome racial imbalance. Is the Department of Health, Education, and Welfare bound by this law or is it not?

And what about the law that says that no department or agency of government shall be authorized to interfere with employment practices unless the primary objective of Federal assistance is to provide employment? Is the Department of Health, Education, and Welfare bound by this law or is it not?

Another truly shocking aspect of this and other arrogant and defiant HEW school plans is the absence of education standards. There is not a word, not a line, not a thought given to educational criteria.

There is not a word, not a line, not a thought given to a consideration of convenience and safety of schoolchildren affected.

There is not a word, not a line, not a thought given to the wishes and best judgment of pupils, parents, teachers, and local education authorities in Mobile County. All valid considerations of this nature are subordinated or utterly disregarded to the overriding consideration of compulsory race mixing to the detriment of all children and the education system which serves all children.

But, Mr. President, the plans were not silent on one point. Where are the people to get the money to build new schools, to remodel and alter others, and to pay the increased cost of busing 15,000 additional children?

In this regard, the Department has the audacity to suggest that local public officials levy additional taxes. This part of the HEW plan reveals the cold-blooded, calculating potential for tyranny that constantly lurks in bureaucratic administration of power. For how can the Department require the levy of taxes? The answer is that it threatens to withhold funds and services provided by Congress for the benefit of schoolchildren. The Department uses food, money, necessities of life as a weapon for enforcement of its regulations. Or else it can resort to Federal courts which continue to threaten elected public officials with confiscatory fines

and imprisonment without benefit of trial by jury as a means of effecting obedience to dictatorial social reforms. Will the people of this Nation submit to such tyranny?

Mr. President, when an agency of the Federal Government willfully violates the law of the land and the expressed will of Congress, there must be an extraordinary reason for it. When public officials flip and flop in their public statements, and when their actions contradict their words—there must be a reason for it.

Mr. President, I would like to call to the attention of my colleagues the statement made by Richard M. Nixon while a candidate for President. Mr. Nixon stated in a television broadcast, and I quote:

"I believe that the Supreme Court decision was a correct decision, Brown versus the Board of Education. But, on the other hand, while that decision dealt with segregation and said that we would not have segregation, when you go beyond that and say that it is the responsibility of the Federal Government and the Federal Courts to, in effect, act as local school districts in determining how we carry that out, and then to use the power of the Federal Treasury to withhold funds or give funds in order to carry it out, then I think we are going too far."

Mr. President, there is good reason to believe the people of this Nation agreed with candidate Nixon. They had a right to believe him. They have a right to believe public statements of candidates and the right to believe the statements of the Secretary of the Department of Health, Education, and Welfare, Robert H. Finch, who said at his confirmation hearing, as reported by the Washington Post, that publication of renowned truth and veracity:

"Mr. Finch said that he did not agree with withholding federal funds, the weapon used by the Johnson Administration."

Mr. President, the people believed that statement. They had a right to believe it. It seemed to be consistent with the statement of candidate Nixon that he did not believe that Federal courts and Federal agencies of Government should act as local school districts or withhold Federal funds.

Yet, Mr. President, one of the first official acts of Mr. Finch upon assuming the office of Secretary of the Department of Health, Education, and Welfare was to order withholding funds, benefits and services from innocent schoolchildren. Since then, the Department has continued to use the "weapon" of withholding funds—funds provided by Congress for the benefit of schoolchildren and not for the benefit of school board members and public school administrators.

And, Mr. President, these funds and services and other benefits have been withheld without due process of law, without an opportunity for parents to be heard or to object or to plead not to be deprived through no fault of their own.

It is my judgment that several of the major political issues of the next congressional and presidential election are being shaped in the context of Federal education policy.

The people want to know whether or not the Constitution will continue to be the law that governs government;

Whether or not the executive branch of the Federal Government will be compelled to obey the law;

Whether or not political actions shall be subordinated to morality, ethics, and humanitarian principles in this Nation;

Whether or not innocent persons shall be deprived of food and benefits as a political weapon to effect social reforms.

Mr. President, these issues as they relate to public education involve considerations of the health, safety, moral welfare of children, and the right of a free people to self-government in matters affecting the vital interests of their children.

These are issues that must be decided. There is no way for any elected public official to avoid a stand on the moral and ethical issues raised in Mobile County, Ala.

Yes, Mr. President, the people of Mobile, the people of Alabama, the people of the South, and the people of this Nation have a right to be outraged.

Mr. President, let us put this problem in perspective. We are not dealing with an isolated action by the Department of Health, Education, and Welfare. The lawless action of the Department is not limited to the public school system of Mobile County, Ala. The hideous plans given birth by unlawful actions of the Department extend to over 25 separate school systems in Alabama. Nor will such lawlessness stop in Alabama, nor will it stop in the South, they will eventualy be extended to cover every pubic school system in the United States—and do not discount that as the intention of the Department. For the forces of rule or ruin in the Department of Health, Education, and Welfare who now exercise life or death powers over the public schools of the South are already reaching out to impose that power over the public schools in other regions of the Nation. This lawlessness must be stopped. It must be stopped now.

Mr. President, how do we explain the actions of public officials who say one thing and do another, and departments of Federal Government which violate laws of Congress with impunity?

The people of this Nation are getting fed up with this business of playing politics with their children and their schools. They are not going to let arrogant and callous politicians endanger the health, safety, and morals of their children and destroy their public school in pursuit of self-centered political ambitions.

The people are fed up with power politics devoid of moral, humanitarian, and ethical considerations, and with politicians who can justify withholding funds, services and benefits from innocent schoolchildren, as a "weapon" to be used for political gain. I say as sincerely and solemnly as I know how that ruthless politicians had better stop playing politics with our children.

The people are downright revolted by pious pretentions about democracy and constitutional law by those who deprive the innocent and also deliberately flout the laws of Congress. They are fed up with deceptions, double talk, and double standards.

But politics is one thing and obeying the law is another. Mr. Finch in Mobile County is executing the will of Congress or he is not. He is, or he is not above the law. The Supreme Court has not declared any of these statutes invalid. They are binding upon every public official, the Department of Health, Education, and Welfare and Federal judges. Yet, Mr. President, these laws are violated by the Department of Health, Education, and Welfare. The people demand that something be done about it. They have a right to demand redress. They will have redress in one way or the other. I say as sincerely as I know how that the people are mad. They have a right to be. A storm is brewing. Something is going to give. Something has to give, and I do not believe it is going to be the will of the people of Alabama and the will of the people of our Nation to resist usurpation of powers and tyrannical use of powers by the Federal executive as so glaringly manifest in HEW actions in Mobile County public schools.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for 10 minutes.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

WAIVER OF CALL OF THE CALENDAR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CORPORATE LIQUIDITY CRISIS

Mr. JAVITS. Mr. President, I have taken the time this morning to discuss a serious problem of an economic character in the country, and that is the illiquidity, in my judgment, of a serious number of employers of labor and corporations in the country so as to require our attention.

Neither the administration nor the Congress has yet moved to solve one of the pressing problems of our economy: the continuing and ominous squeeze on corporate liquidity.

In the midst of optimistic statements about the economy, it is critical to remember the abyss which may be at our feet, the abyss of illiquidity.

It is not an overstatement to say that the economic cardiogram was flashing the danger signal in the wake of the Penn Central bankruptcy. The commercial paper market weathered this immediate storm and the administration has been reassuring the Nation that all is now well. However, a nationwide survey I have just made has convinced me that all is not well and that the underlying conditions that lead to the first crisis are still very much with us. Now is the time to take out the "life insurance" to guarantee that if another principal member of the Nation's economic family fails, the overall health of the economy will remain intact. Another major corporation could fail without the bankruptcy procedures being able to insure continuance of operations over a crisis period.

It is conventional wisdom to state that the behavior of the commercial paper market in the wake of the Penn Central bankruptcy indicates the strength of our financial markets. However, it is the truth to state that if there is another failure like Penn Central, a major crisis would develop since the underlying condition of illiquidity has not been relieved.

It also is clear that when Penn Central went bankrupt, a clear and present danger existed that the commercial paper market would cease orderly functioning and that the Federal Government lacked the necessary emergency powers to shore it up. We must insure that this possibility does not arise again.

In recent letters to me, Gaylord A. Freeman, chairman of the board of the First National Bank of Chicago and Frederick L. Deming, a former Undersecretary of the Treasury and now a partner in Lazard Freres and Co., graphically spelled out the details of the liquidity problem.

Mr. Freeman who gave me his kind permission to use sections of his letter of August 19 stated:

I feel that the immediate crises of fear of commercial paper, which was generated by

the Penn Central failure, has passed. However, the liquidity problem remains. Corporations are quite illiquid. Inventories have been rising (particularly in this part of the country where we have more manufacturers of durable goods than non-durables), and accounts are not being paid as promptly. Thus, liquidity is impaired, and borrowing needs increase. (Our loans have been running about $4-billion—some $437-million and 12 percent ahead of a year ago.) Municipalities are also less liquid than before, and I am afraid that even the federal government has been a little short of cash.

Thus, though the crisis has passed, the problem is still with us. And one, or possible two, failures of large companies (and I don't see any immediate prospect of this) could cause a further loss of confidence and a real crisis. Thus, it seems to me it would be wise for the federal government to have some standby authority.

Mr. Deming wrote that:

The high degree of uncertainty which characterizes our economy reflects concern about the corporate liquidity situation and some fear of a liquidity crisis. By almost any measure corporate liquidity has deteriorated considerably in the past several years, particularly in the last 18 months. Some significant ratios for all non-financial corporations are listed below; were data available for mid-1970 they would show further deterioration.

	1964	1968	1969
(1) Cash plus Government securities as percent of corporate gross product (end of year)	18.6	14.2	12.5
(2) Liquid assets as percent of current liabilities (end of year)	42.3	34.4	30.0
(3) Internal sources of funds as percent of total finance required for increase in assets (full year)	70.3	57.1	52.8
(4) Net interest paid as percent of of corporate profits before tax (full year)	9.1	14.2	16.8

Mr. Deming continued:

The odds against a liquidity crisis still seem fairly favorable but they undoubtedly have shortened over the past six months. In this kind of situation it would be well to establish some safeguards to prevent any real crisis, or if one occurs to ensure against any serious chain reaction.

One month ago, I introduced legislation which would provide the administration with the economic war power needed in times of economic difficulty. Basically, my bill would authorize the Secretary of the Treasury to guarantee loans made to certain businesses which are in necessitious circumstances, the continuance of whose operations are vital to the national interest. The Secretary would also be required to certify that the purposes of the loan to be guaranteed must further the economic health and welfare of the Nation or a region thereof, and that the business of the enterprise to be assisted is of a nature which makes assistance appropriate in furtherance of the purposes of this bill. What these two conditions mean is that the business must be one imbued with the public interest, and one whose failure would seriously affect the economy of our country or the well-being of a particular area such as a city or a populous county; it could conceivably be a business undergoing reorganization under the Bankruptcy Act, so long as the necessary conditions are met. They further mean that the purposes to which the guaranteed loan would be put must be carefully scrutinized before any guarantee is made; that these purposes must be productive and must be such as to help restore or maintain the economy of the nation or the region.

I am pleased that Dr. Arthur Burns of the Federal Reserve System feels so strongly that such a loan guarantee power is needed that he would be willing to see this power lodged in the FED if the Treasury did not wish to administer it.

It is my understanding that my proposal has been actively considered at very high levels of this administration and that apparently the decision has been made not to support this bill at this time. Reportedly, the administration fears that its support of such a bill would have an adverse effect on business confidence rather than buoy it up. In my view this judgment is faulty, since the American business community and the American banking community full well know their state of illiquidity. I would venture that almost every major bank in this Nation is aware that at least some of its important corporate customers have a cash-flow problem. The banking community also is aware that it is carrying more potentially troublesome loans now than it was a year ago, with the result that the domino theory of business failures still cannot be ruled out. Banks also are noticing a strong loan demand from companies that have never borrowed before, and a loan demand from companies lacking in liquidity.

Many, even the larger companies, have about exhausted their borrowing authority and many cannot pay bills on time. This is about the surest indicator that the crisis danger is by no means past.

Many small companies that have been issuing commercial paper have withdrawn from the market and have returned to the banks for their financial needs—again swelling loan demand. Finally, the budgetary position of the Federal Government—which puts it further in deficit—guarantees that the Treasury will become a more active borrower in the financial markets, thus placing pressure on these loan markets.

These facts are drawn from discussions I have held with financial leaders in New York, San Francisco, Chicago, Dallas, Atlanta, and Winston-Salem.

In citing these facts, I wish merely to point out that optimistic administration statements are not kidding anyone. The American business community and the banking community are fully aware of the liquidity problems they are facing and they would be relieved, indeed, to have the Government and the Congress do something to alleviate them.

It would buttress business confidence if the administration would support measures such as an emergency loan guarantee authority to help insure that another major crisis does not develop. The administration should do so now.

The actions of the Congress in the economic area cannot escape criticism, either. Legislation which addresses itself to the real economic problems of today languishes.

While I and others feel that the emergency loan guarantee authority falls into this category, the Penn Central problem is an even more pressing specific example. In the very near future, banks throughout the Nation will be asked to lend funds to Penn Central for operating costs which would be backed by trustee certificates. I have been informed that such trustee certificates will not be viewed as adequate collateral by some of the banks, and that without a Government guarantee, the banking community probably will not lend Penn Central the required funds. Thus, in the very near future, the administration and the Congress may be faced with three specific choices. That they can either enact a loan guarantee bill; allow Penn Central to suspend operations with the macroeconomic implications such a failure would cause; or nationalize the railroad. In my view it is the course of wisdom to opt for the first choice.

But, the bill providing such loan guarantee authority languishes in the Congress. A bill to provide brokerage insurance also faces an uncertain fate partially because of the administration's uncertain position in support of this bill.

On the broader question of emergency loan guarantee powers, hearings have not been held by the key committees. This suggests that the two-way flow of information between the business and banking community and the Members of the Congress on the importance of such an emergency guarantee power could be faulted. I previously suggested that all Members of the Congress consult with the administration and the Federal Reserve on the need for an emergency loan guarantee bill. I now urge that the banking and business community make their wishes known to the Congress to acquaint the Members of the Congress with the status of the liquidity problems in their districts and States.

I ask unanimous consent to have the memo Frederick Deming sent me on the liquidity situation printed in the RECORD.

There being no objection, the memo was ordered to be printed in the RECORD, as follows:

THE CORPORATE LIQUIDITY PROBLEM—WHAT CAN BE DONE ABOUT IT

I. The current economic situation continues to be characterized by a high degree of uncertainty. That uncertainty reflects four fundamental factors:

A. Differing appraisals of the basic strengths and weaknesses of the economy and consequent fairly sharp differences as to its immediate future course. The spectrum of expectation ranges from real recession through continued stagnation to slow resumption of sustainable growth and up to continued or resurgent inflation.

B. Fears about the two major trouble spots in the world—the Middle East and Southeast Asia. The lessening of tension in the Middle East should have eased these fears, but that development seems to have been approximately offset by the events in Cambodia.

C. Doubts about the efficacy of Government economic policies. These are heightened by recognition of the fact that the American economy is so big that it generates great momentum on its own and can be for some time relatively insensitive to policy changes.

The doubts also are compounded by the feeling that in an election year economics tends to be subordinated to politics. When, far more than usual, the problem of current policy is to follow a path that guards against the dangers of the extremes—recession or continued inflation—the doubts also are greater than usual.

D. Concern about the corporate liquidity situation and some fear of a liquidity crisis. By almost any measure corporate liquidity has deteriorated considerably in the past several years, particularly in the last 18 months. Some significant ratios for all non-financial corporations are listed below; were data available for mid-1970 they would show further deterioration.

	1964	1968	1969
(1) Cash plus Government securities as percent of corporate gross product (end of year)	18.6	14.2	12.5
(2) Liquid assets as percent of current liabilities (end of year)	42.3	34.3	30.0
(3) Internal sources of funds as percent of total finance required for increase in assets (full year)	70.3	57.1	52.8
(4) Net interest paid as percent of corporate profits before tax (full year)	9.1	14.2	16.8

II. This memorandum is addressed to the fourth factor, the liquidity problem. That problem itself reflects four factors which can be best presented in the chronological order of their emergence:

A. Corporate liquidity, as the above cited figures indicate, had been run down to relatively low levels over the past several years. Thus when the liquidity problem became evident early in 1970, the corporate liquidity base was already low. In part this rundown of liquidity reflected more efficient use of funds and in that respect was not a harmful development. In part it reflected the buoyant economic situation which increased requirements for funds to finance additional plant and equipment and inventory and to carry on an increased volume of business. In part it reflected the higher cost of keeping "idle funds" as interest rates rose.

B. A restrictive monetary policy begun in late 1968 became increasingly tight in 1969. Policy has been eased in 1970 but it has remained relatively restrictive even after the easing. The restrictive policy resulted in curtailed bank lending and thus forced more borrowing into other channels, particularly the capital and commercial paper markets. In the former, corporate demand completed with heavy Government agency and state and municipal finance. This growing demand in the face of monetary restraint drove up interest rates to unprecedented levels. And as demand increased lenders became more selective and somewhat less willing to give up their own liquidity for long-term obligations.

C. Hopes for lower interest rates in the near future coupled with difficulties in borrowing at long-term caused a number of corporations to meet their needs for funds by short-term finance—some by commercial paper, some by short-term notes sold in the capital markets. Some corporations deferred capital market borrowings and ran down their own liquidity still more. When interest rates not only failed to fall but actually rose substantially the market climate became even less favorable and the liquidity problem was intensified. Lenders became even more selective and the rate differential between excellent and merely good credits widened appreciably.

D. The conjuncture of high rates, lender selectivity, economic slowdown and reduced profits and cash flow has made corporate debt service significantly more difficult and more costly. A weak and falling stock market practically has precluded equity finance. By mid-1970 the liquidity squeeze was quite evident. The question was whether it would become a crisis rather than just a problem.

III. The figures cited earlier are averages for all non-financial corporations. Some corporations are below average; some few may be actually at dangerously low levels of liquidity. Whether the liquidity problem becomes a liquidity crisis depends upon (1) what happens to those relatively few large corporations which may be in a vulnerable position and (2) the repercussions which might stem from one or more failures. The basic danger to the economy lies in a possible chain reaction both in the real economy and in the financial markets. The following points are pertinent in weighing that danger.

A. The fact that some cases of vulnerability are the product of improvidence, lack of foresight or bad management is not particularly relevant. Whether a bankrupt corporation has been "good" or "bad," the effects on the real economy are roughly the same—loss of production, loss of jobs, loss of markets for other companies. The real question to be faced is whether there would be a significant chain reaction in the real economy and, perhaps even more important, whether there would result a psychological reaction which would intensify the chain reaction in the real economy and lead to significantly adverse effects in the financial markets.

B. The Penn Central case is a dramatic illustration of a liquidity crisis for one important company. On the whole the reactions to the Penn Central bankruptcy give some cause for optimism but there were some very unsettling—fortunately, temporary—results. So far there has been little impact on the real economy and what the delayed impact may be cannot be ascertained as yet. Obviously a railroad in receivership is not likely to be as good a customer as one that is operating outside receivership and at a profit. Some layoffs of workers are foreseen also, but that impact seems likely to be relatively small. Some other railroads are being directly affected. Neither the stock nor bond markets were shaken badly by the case but the commercial paper market was hit hard for a time and some perfectly sound credits—finance companies—went through considerable discomfort and had to undertake a real scramble for funds. Here there was potential chain reaction; it was halted by prompt Federal Reserve and big commercial bank action.

C. Other smaller failures seem to have had little impact on either the real economy or the financial markets but they undoubtedly have contributed to the growing selectivity of lenders. The well-publicized troubles of some of the conglomerates obviously have affected the price of their stocks and probably have affected the general level of stock prices. They also have had impact on lender selectivity. On the whole, however, none of these developments has carried the seeds of potential chain reaction.

D. The potential danger of chain reaction thus would seem to stem mainly from adverse developments, especially failure, of one or more companies with two or more of the following characteristics ranked in rough order of importance: (1) substantial size in sales, purchases and employment; (2) national prominence (almost automatic for concerns of the first characteristic; (3) reputation for sound financial management and position; (4) government regulated; (5) major sales to government or government regulated companies. The more vulnerable companies are those with characteristics (4) or (5) and (1). There probably would be greater chain reaction potential from companies with characteristics (1), (2) and (3).

IV. The odds against a liquidity crisis still seem fairly favorable but they undoubtedly have shortened over the past six months. In this kind of situation it would be well to establish some safeguards designed to prevent any real crisis, or if one occurs to ensure against any serious chain reaction. Two major safeguards seem indicated:

A. The first and more important is largely already in place and requires no legislation. The Federal Reserve already has relaxed monetary policy and could relax more should that seem the appropriate course of policy. Perhaps even more importantly, the Federal Reserve has assured the banks that they will have adequate liquidity to ensure that their customers can keep or get needed credits to ameliorate any liquidity squeeze. Specifically, the Federal Reserve seems to have assured the banks ready access to the discount window should they need it as a result of picking up some of the demand that had focussed on the commrecial paper market. The Federal Reserve also has suspended ceiling on large short-term certificates of deposit, which enables the banks to obtain funds more freely. The one additional step which the Federal Reserve might undertake is to give the banks a bit more "guidance" as to how they should employ their funds—e.g., emphasis on "productive" loans and suggestions that banks roll over credits rather than force borrowers out into the capital markets.

B. The second safeguard would reinforce the first and help insure against a chain reaction by providing finance for a company faced with a liquidity crisis that could lead to bankruptcy. In effect, the second safeguard would be a new Reconstruction Finance Corporation but with primary emphasis on Government guarantee of credits. It would be highly useful to get such a safeguard in place quickly.

V. The establishment of the second safeguard would require legislation. The form and character of the safeguard should reflect certain criteria which would ensure its acceptance and effectiveness. Such criteria would include:

A. *Relative simplicity in establishment and administration.* This would argue for a simple Federal program of loan guarantees (plus, perhaps, a relatively small direct loan program) with its administration placed in an existing institution. This would minimize new staff requirements and should almost eliminate start-up time problems. It also should ensure efficient and prompt action in cases where the program would be used. There should be no need for Government capitalization (although, if a direct loan program were included some appropriations probably would be necessary).

B. *Sufficient size to make the safeguard authoritative and credible.* A loan guarantee program of $5 billion (plus, perhaps, a direct loan program of $500 million) should meet this criterion.

C. *Assurance of maximum cooperation from the financial community.* A loan guarantee program probably would be preferred to a direct loan program by the financial community both because it would be bigger and because it would not be directly competitive. Lodgment of the administration of the program in a known existing institution and efficient, expert and prompt decision-making by that institution also would be important in assuring maximum financial community cooperation.

D. *Adequate controls to prevent misuse or unnecessary use.* In essence the adequacy of such controls would depend primarily upon the strength of the administration of the program. Certain guidelines can be set forth in the legislation and more specific guidelines can be developed by the administrator. What would need to be controlled would be the temptation on the part of the financial community to seek government guarantee not merely in cases of real need, but simply to make the prospective credit better and/or to permit it to carry a relatively low interest

rate. What also would need to be controlled would be the temptation to bring either hopeless cases in for guarantee or direct loan or cases which would be unlikely to have serious national or regional repercussions and hence unlikely to set off a chain reaction and lead to a liquidity crisis.

E. *Minimal drain on the Federal budget.* A guarantee loan program administered by an existing Federal institution could be structured so as to cost virtually nothing in direct budget terms. With no Federal capital and minor (reimbursable or direct) administrative costs, the only real drain on the budget would come from losses requiring the Government guarantee to be taken up. (Some minor, non-determinable budget costs might result from the market impact of additional Government guaranteed securities on interest rates paid on direct Treasury securities.) A direct loan program probably would involve appropriations and budget costs. (These, however, might be made acceptable by following the suggestions noted in Section VI, A.)

F. *Political acceptance and palatability.* There are three factors which could be involved here: the amount of direct budget costs, the lodgment of the administration of the program and the fact that it is designed primarily for big business. Particularly the latter factor might be extremely sensitive. This would argue for earmarking a portion of the guarantee authority (and a portion of the direct loan fund, if it were included) for small business. It probably also argues for a direct loan program even though that would raise another political problem—direct budget costs.

VI. Following the criteria laid down in the preceding section, the second safeguard—an emergency lending authority—could take the following form:

A. A loan guarantee authority of $5 billion and a direct loan program of $500 million to provide emergency financial assistance to business enterprises to meet temporary and urgent financial requirements which, if not met, might seriously impair the ability of such enterprises to produce goods and services, might seriously affect the economy of the Nation or a region thereof, and might seriously disrupt the financial markets.

(One method of financing the $500 million direct loan program which merits exploration would be the earmarking of a portion of the payment made annually by the Federal Reserve to the Treasury. This payment, which has been much larger than $500 million, represents virtually all of the net profits of the System and is covered into the general revenues. In general, the Treasury opposes earmarking such funds and has valid reasons for its position. In this particular case, however, such earmarking might make sense. Obviously it would provide no direct budget saving but it might make the appropriation process easier. Should this approach be used, it should take the form of straight earmarking and appropriation rather than having the Federal Reserve pay the funds directly into the direct loan fund.)

B. The guarantee authority and the direct loan program to be administered by the Federal Reserve Board with the Federal Reserve Banks acting as fiscal agents and in such other capacities as the Board may require.

C. No guarantee of a loan and no direct loan should be made unless the Federal Reserve Board finds that:

(1) The loan is necessary to carry out the purposes of the Act;

(2) The loan is not otherwise available on reasonable terms and conditions;

(3) There is reasonable assurance of repayment;

(4) The loan will be applied to productive purposes necessary to the economic health and welfare of the Nation or a region thereof.

D. The Federal Reserve Board should have authority to require such security for guarantee or loan and such agreements regarding management as it regards as necessary. The Board also should have the authority to consult with and review with management any matter which may bear on the company's ability to repay the loan.

E. Limitations on any guarantees or direct loans to one enterprise should be set at 2 per cent of the total guarantee authority or direct loan fund ($100 million guarantee, $10 million direct loan) except that in unusual cases that seem certain to affect adversely the national economy, and after consultation with the Secretary of the Treasury, the Chairman of the Council of Economic Advisors and the Director of the Office of Management and Budget the guarantee limit could be extended to 5 per cent of the total guarantee authority.

F. Five per cent of the guarantee authority ($250 million) and ten per cent of the direct loan fund ($50 million) should be earmarked for smaller business enterprises—those that without emergency finance would affect adversely the economy of a smaller region such as a town or a country. Limitations on guarantees or direct loans to any one enterprise in this category should be fixed at 2 per cent of the earmarked guarantee authority or direct loan fund ($5 million guarantee or $1 million direct loan).

G. The Federal Reserve Board would be required to make quarterly reports to the Congress with respect to its administration of the guarantee authority or the direct loan fund.

VII. There are strong arguments for putting the administration of the guarantee and direct loan programs in the Federal Reserve Board:

The Federal Reserve has administered programs of this kind in the past and did them well. It has the expertise and staff. Expenses of administration should be small;

The Federal Reserve has the respect of the financial community and could be expected to get maximum cooperation from that group;

The Federal Reserve is an independent agency that would be little susceptible to outside pressures;

The Chairman of the Federal Reserve Board has suggested that Congress give attention to the feasibility of a Federal loan guarantee program to necessitous borrowers but at the same time has expressed the opinion that any such program should be administered with care. As noted earlier, the question of adequate control of an emergency loan program rests basically on strong administration.

VIII. Senator Javits has already introduced a bill, S. 4127, which would establish an emergency guarantee of loans up to $5 billion. A copy of that bill is attached to this memorandum. The Javits bill differs from the proposal set forth in this memorandum in six major aspects:

There is no direct loan program.

The administrative authority is lodged in the Secretary of the Treasury.

He is required to consult with the chairman and ranking minority members of the Senate and House Banking Committees before making any guarantee commitment of less than $20 million and submit for full Congressional action any commitment of more than $20 million.

A loan Guarantee Policy Board is created with the Chairman appointed by the President (and confirmed by the Senate) and the Chairman of the Federal Reserve Board and the Secretary of the Treasury as members. Such Board is to establish general policies.

The authority is temporary (for one year) but the establishment of a permanent Emergency Loan Guarantee Corporation may be considered after one year and the receipt of a report from the Secretary of the Treasury.

There is no specific provision for smaller business.

The major weakness in the Javits bill is the provision for Congressional consultation. After the Penn Central case this is perfectly understandable but probably is not workable. The Congress simply is not organized to be a operating executive committee for emergency lending. It would be much better for Congress to delegate the loan guarantee (and/or direct loan) authority to an operating institution that it can trust and which has expertise in this field. The provision (in Section VI of this memorandum) for quarterly reports should provide ample opportunity for close Congressional review.

Aside from this provision for Congressional consultation the Javits bill has much to commend it; in fact, much of the language of Section VI of this memorandum is taken directly from it. This memorandum argues that there is no need for a new institution—and hence by implication no need for a Loan Guarantee Policy Board—and that the Federal Reserve should administer the program. It also argues for a direct loan program and for specific provision for small business. The Federal Reserve point is important; the direct loan program and the small business provision are not crucial except, perhaps, politically. Neither is the memorandum's implication that the authority should be longer than one year.

It would be quite easy to amend the Javits bill to make it conform to the outline in Section VI of this memorandum. At a minimum it should be amended to eliminate the Congressional consultation or Congressional action provisions.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The PRESIDING OFFICER (Mr. SPARKMAN). Under the previous order, the Chair now lays before the Senate the unfinished business which the clerk will state.

The assistant legislative clerk read the following:

H.R. 17123, to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evalution for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senator from Maine is recognized. How much time does he yield himself?

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 15 minutes.

AMENDMENT NO. 811—MODIFICATION

Mr. MUSKIE. Mr. President, I send to the desk a modification of the pending

amendment, 811, and ask that it be stated.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

AMENDMENT No. 811

H.R. 17123, An Act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and viz: On page 7, line 6, strike out the period and insert for other purposes, in lieu thereof a colon and the following:

"*Provided*, that none of the funds authorized by this Act may be expended for the procurement of DD-963 class destroyers unless (1) the prime contractor with whom the United States contracts for the construction of such destroyers is required under the terms of such contract to subcontract to another United States shipyard and (2) the total number of such destroyers set forth under the terms of the prime contract is divided substantially equally between the prime contractor and subcontractor."

Mr. MUSKIE. Mr. President, in the course of my remarks I shall undertake to explain the amendment and the difference between the substitute and the amendment which has just been stated.

Mr. President, during recent months a series of events have occurred which taken together prove conclusively that an award of the entire DD–963 destroyer procurement by the Department of Defense to one contractor was ill advised and certainly not in the national interest. And that decision must be modified by the Congress in a prompt and responsible manner.

I am proposing an amendment to the military procurement bill which, in essence, would require the division of that contract by way of a subcontractor for substantially half of the ships to a second American shipbuilder which won as a result of competitive bidding. Thus, Litton would remain as the prime contractor with 15 ships exceeding $1 billion in value and the second corporation would be responsible for the construction of the balance of the ships.

This position is supported by findings of Mr. Fitzhugh's blue ribbon defense panel in a report to the President and Secretary of Defense on July 1, 1970, only one week after the Navy awarded its entire nonnuclear destroyer program to Litton Industries. The report says in part:

The Navy, while procuring fewer ships in recent years, is the source of an increasingly higher percentage of the total funds spent for ship construction in this country.

As a consequence, the procurement process for Navy ships, even more than in other procurements, must reflect a concern for the existence of a sufficiently broad industrial base to provide competition for such procurements.

Moreover, a subcommittee of the blue ribbon defense panel, headed by Wilfred J. McNeil, first Comptroller of the Department of Defense, used even stronger language when they said:

If the Navy goes ahead with its announced intentions to seek series type production contracts for major ship programs in a single yard, there will be almost total concentration of major Navy work in three . . . yards . . . over a significant period of time. During this hiatus for the remainder of the yards, they may well lose their capability to respond to Navy shipbuilding requirements or go out of business altogether. Although the Navy cannot and should not attempt to keep all its former suppliers of ships in business the maintaining of a responsive production base and a healthy, competitive environment . . . is certainly as important as experimentation with new procurement techniques.

If recent history on moderately large Navy ship orders is any indication, large package ship procurements constitute a serious risk to the contracting shipyards' corporate survival. The DD963 destroyer program currently planned for 30 ships represents about $3 Billion. A ten percent loss in performing on this contract ($300 Million) would exceed the net worth of either of the shipyards competing for that program by at least a factor of two.

As concentration of work in a few yards progresses with a high degree of specialization in each, there will be serious reduction in competition for Naval ships. In addition, there could also be a substantial reduction in the nation's total shipbuilding capability. This loss of a competitive environment in itself could offset the economic advantages of series production. . . . The Navy . . . with respect to its combat vessels, must be concerned not only with the maintenance of an adequate production base but also with the continuation of a healthy competition within that base.

In order to (a) insure an adequate production for combat ships and (b) Continue to generate competition between shipyards for most classes of ships—The Navy should take such action as is appropriate to distribute major multi-ship prime contract awards among two or more yards.

In order to (a) maintain a healthy competitive environment and (b) Insure a viable production base for Navy combat ships and auxiliaries—Prime contracts for series production of a single class of Navy ships should be awarded to more than one yard whenever the total order exceeds ten ships.

Mr. President, this recommendation is the latest recommendation of a panel specifically organized a year ago by President Nixon to review Defense Department organization and policies. In the light of the nature of that panel and its significance in this administration, its recommendation as based upon this procurement award is significant.

I agree with the McNeil report in the main; however, my amendment does not provide for separate prime contracts because I feel there are cost and standardization advantages in a single design produced at two locations.

The General Accounting Office has given us its views on this subject in its report of August 26, 1970. The report was issued in response to a request by my distinguished colleague, the senior Senator from Maine (Mrs. SMITH), earlier this year. The report was put in the RECORD in its entirety on August 28 of this year. I would like to read these excerpts from that report:

By contracting with one company the risk is present that the company may not be able to complete the contract at the agreed price. It is possible that the company at some point could come to the Navy and say it is unable to build the ship for the contract price. Under these circumstances, the Navy would find itself with few options. The Navy says it does not expect that this is a real possibility, but it has occurred under other long-range production programs.

We believe also that there is some danger to future competition. Given the Navy's premise of a single ship design (presumably Litton's) at the lowest price, it is difficult to see how another company will be able to compete pricewise with Litton on future orders. Start-up and early learning costs in such a program are substantial and, assuming the same ground rules are applied in the future, it seems questionable as to whether anyone will be able to compete with the successful contractor in this award, no matter how many additional ships the Navy plans to buy. We are told that the differences in commercial and military ships, even if the Maritime program should become a reality, would not make the winner of these awards competitive for military ships.

These are significant views, expressed by highly qualified sources. To date they have apparently been discounted by the Department of Defense in their rush to award a contract and get started with the destroyer program—even though we are over 4 years from the first ship delivery in a program scheduled to run into 1979. Unless we act to correct the situation now, our destroyer program—the very heart of our Navy—could suffer over the next decade.

The DD–963 class destroyer program had its origin in late 1966 when officials of the Department of Defense, in recognition of the approaching obsolescence of segments of the Navy's surface fleet, initiated a new shipbuilding program. The primary mission of the DD–963 class destroyer are to: First, provide protection to attack carrier forces against the surface/submarine threat, second, escort amphibious assault-preassault forces, and third, conduct shore bombardment in support of amphibious assault or land warfare forces. The Navy inventory objective for destroyers of this type is 50 ships. A procurement program of 30 ships has been approved by the Secretary of Defense subject to congressional authorization.

The Navy's original intention was to procure from 30 to 50 destroyers, using the total package/multiyear procurement technique with a plan to award a single fixed-price contract to the winning competitor. Early competition included six American shipyards: Avondale of Louisiana, Newport News of Virginia, Todd of California, General Dynamics of Massachusetts, Bath Iron Works of Maine, and Litton of Mississippi.

Prior to the award of a contract definition contract, the competition was reduced to half, with General Dynamics, Bath, and Litton remaining.

Proposals were submitted by the three in April of 1969 which included a recommended ship design, management plan, and price.

The Navy reviewed the three proposals extensively and in September of 1969 announced that General Dynamics shipyard would be eliminated from the competition.

Shortly thereafter the Navy requested the first supplementary proposals from Bath and Litton, which were submitted in November of 1969. This request included major changes of a technical na-

ture to the ship designs which, in effect, altered the scope of the work to be performed under the contract. It is important to note that Bath and Litton were each developing their own destroyer design, similar only with respect to performance characteristics. These proposals submitted in response to this request included the second round of price quotations.

The Navy, apparently still dissatisfied with the second supplementary proposals offered in November, requested a third set in February 1970 from both competitors. Again, technical changes were requested and a third round of prices quoted. The Navy has verified that target costs per ship after the third round were virtually the same, with Bath $64.9 million and Litton $64.7 million. Since there were no technical changes after the third round of prices, it is critical to bear in mind that both finalists' costs were essentially the same before the fourth and final bids were submitted.

Then in March the Navy changed the type of contract from a fixed price incentive to a fixed price incentive successive targets contract and asked for "best and final" prices. The successive targets feature gave the winning contractor the right to renegotiate prices 39 months into the contract. Bath's target cost in the final round came down to $61.3 million and Litton's dropped drastically to $54.9 million per ship. This change created a final difference in price of approximately $276 million on the total 30-ship program, with Litton the low bidder, and again, Mr. President, I want to emphasize that there were no changes in the technical requirements before the final bid.

On June 23, 1970, the Navy announced an award of the entire 30 ships to Litton Industries but conceded that each of the finalists had offered an excellent ship and a fully acceptable proposal.

The Navy awarded the contract to one shipyard in the very face of prior action taken in the House of Representatives, with the concurrence and full support of the chairman of the House Armed Services Committee, to force a division of the contract between at least two American shipbuilding companies.

It has been argued that a division of the contract now would be unfair because a contract has already been awarded, because it would allegedly increase the cost to the Government and because it would allegedly establish a bad precedent for the Congress. In my opinion, these arguments for awarding to a single builder all of our new destroyers are unsound and misleading.

On the first point, certainly the Navy and Litton were aware of the House action, to which I have referred, before the contract was awarded. Second, there has been wide speculation from the time that the third contract was eliminated that the contract might well be divided between the two remaining competitors. I doubt if either of the two contractors would have been surprised if the Navy decided to award the contract to two rather than one shipyard.

On the question of surprise, Mr. President, the Navy, prior to contract award, took appropriate steps to amend the contractual language in the Bath and Litton proposals to include the mechanics for dividing the contract in the event the Senate supports the earlier House vote.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUSKIE. Mr. President, I yield myself another 10 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for an additional 10 minutes.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks as an exhibit, article XXVI from the Litton contract on the subject I have just referred to.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I would like to read this language from that article. I repeat, this is in the Litton contract:

(a) The Government shall have the right to require the Contractor to subcontract the construction of a quantity of complete vessels as may be necessary to comply with the legislation referred to in the premises hereof. The Contracting Officer may require the Contractor to solicit all shipbuilders on the Naval Ship Systems Command's bidders list for destroyers for one or more subcontracts.

How can it be argued, Mr. President, that with this provision in the contract, which Litton signed, that the amendment I propose would constitute a surprise to Litton industries?

My amendment proposes to do what the Litton contract permits the Navy to do.

Thus the Navy very properly anticipated such action and is fully prepared to implement the desires of Congress without delay or disruption to the program.

Likewise, the entire argument is addressed only to costs directly connected with the procurement of the initial 30 ships in this program and completely fails to acknowledge the lasting cost advantages of maintaining competition in our shipbuilding industry.

Let me just cite for the RECORD the intent of my amendment:

First. Retention of one prime contract by Litton Industries.

Second. Require that approximately half the ships be subcontracted to a second American shipyard, after a round of competitive bids from any shipyards approved by the Department of Defense.

Third. Utilization of a single design, presumably Litton's.

Fourth. Utilization of centralized procurement of machinery and equipment for purchases of 30 shipsets of like components to assure standard ships at lowest possible price.

Fifth. Provide the economies of series ship production derived from construction of at least 15 ships of the same design within a single facility.

The principal reason for any increased cost to the Government would result from the need for two 15-ship learning curves in lieu of one 30-ship learning curve. And even this is mitigated by the fact that there will be a single design, and machinery and equipment will be purchased in lots of 30.

Any figures reflecting an estimate of the increased cost of dividing the contract are based conjecture alone. Since it is my clear understanding that neither Bath nor Litton was ever requested to estimate the cost of building in quantities of fewer than 30 ships, I cannot understand the various additional cost estimates of the Navy as brought forward by my esteemed colleague from Mississippi. My sources indicate that with a single prime contract the costs would not be increased more than 4 to 5 percent. The advantages to be gained from the competition on follow-on contracts and the retention of multiple-destroyer building capabilities far outweigh these increased costs. That conclusion is justified by the record.

It is worthy of note that ongoing and fierce competition between six shipyards in the procurement of 30 DDG's between 1957 and 1965 tended to drive the Government's cost down, even in a period of inflation. For example, three DDG's were purchased from one shipyard in 1957 for approximately $16.5 million per ship. And in 1965, the last three ships in this class were purchased from another shipbuilder for approximately $14.5 million per ship—a $2.5 million reduction over an 8-year period which was inflationary. Competition does have a favorable effect on cost to the Government as this example proves.

It is appropriate to consider the spread in prices of the two final DD–963 competitors, Bath and Litton. As noted, each submitted virtually the same prices on the third round proposals; yet with no change in technical requirements, Litton's winning price on the fourth round was $276 million less than Bath's. This has created the false impression that the Government's cost of doing business with Litton would be hundreds of millions less than the next best offer. This conclusion is completely false and should be clarified lest Members of Congress be misled into believing that Litton's costs are far lower than others in the industry.

Let me explain that in the final pricing proposals, each of the two competitors made assumptions concerning the effect on costs of projected economic changes over the 8-year contract. It must be understood that the type of contract used requires that the Government pay the contractor escalation payments for cost variances compared to a base month, in this case January 1969. The payments vary with the changes in a national labor index and a national material index. The amounts that the Government is contractually obligated to pay may have little relation to the actual cost experience of the contractor. And the payments are in addition to and separate from the contract price.

In competition for defense awards, bidders are permitted to estimate that their own actual cost changes will be greater or less than the fluctuations experienced in the national averages. Bidders include the difference between their own expected inflationary cost changes and the anticipated Government payments in their bids.

Under the reset terms of the fixed price incentive successive target contract the contractor can recover his increased

costs due to inflation and in essence "get well" for any errors in projecting the economic trends. In fact, Litton's costs under the contract can increase $387 million, while still providing a profit of $107 million. In the words of the GAO, "this seems rather substantial."

Bath and Litton made vastly different projections relative to the inflationary growth and the amount of payments by the Government under the escalation payments clause. The difference in the projections amounts to $290 million, an amount which is greater than the price spread of the competitors. In actuality, Bath's best and final proposal contained cost estimates which in current dollars were less than Litton's comparable cost estimates. Thus the entire $276 million difference in the final prices is a result of the assumptions made relative to the economic conditions over the next 8 years.

It is important to reemphasize that the increases in costs due to economic conditions and the payments under the escalation clause are virtually independent of the contractor and his present projections. The escalation payments to either Bath or Litton will be similar because they are based on national indices. The contractor's actual cost increases, whether Bath's or Litton's, would be similar because of the commonality of subcontractors and the pattern settlements of labor negotiations.

Regardless of which competitor projected the economy more accurately, when the two competitors use the same set of assumptions regarding the future course of the economy, the price differential of $276 million disappears. I, therefore, cannot concur with the Navy assessment that a $276 million difference existed between the two proposals, when looked at in terms of the final costs to the Government.

Given the fact that Bath was cost competitive with Litton and that there exists the potential for strong competition from shipyards in Maine, Massachusetts, Virginia, Louisiana, California, and Washington State for any subcontracted ships, we would estimate that the cost increase by dividing this initial 30-ship purchase will not exceed 4 to 5 percent. This is a small premium indeed for reducing the risks to the Government and retaining a competitive shipbuilding environment which will ultimately create far greater cost savings on future procurements. And I would repeat that absent strong follow-on competition for the other 20 destroyers, Litton will be in a good position to name its own price for future destroyer awards.

To lose our proven destroyer-building capability could prove disastrous for the country. Bath, from my State, alone has built nearly 160 destroyer-type ships—19 within the 1960's—and their record for cost and delivery performance is enviable in this day of overruns and poor contractor performance. I am attaching a copy of Bath's destroyer-building history to this statement. There are other shipyards building destroyers with nearly comparable records. All of this stands to be lost by awarding the entire DD–963 contract, the major destroyer program for the 1970's, to a single, relatively inexperienced destroyer-building shipyard.

Furthermore, the country will lose this golden opportunity to encourage a second shipyard to modernize unless we act to insure that a 15-ship subcontract is awarded.

It is argued, third, that the proposed division of the contract would be establishing a dangerous precedent. This whole matter is a precedent of serious concern. The issue is really not whether or not we set a precedent, but what kind of precedent we set. I do not believe we should continue on one course simply because the Departments of Defense and the Navy believed it correct 3 years ago and apparently still feel committed to decisions made in 1967. In my opinion, the weight of evidence has swung to such a degree that a change must be made now before our Government is irrevocably committed for 8 years to a posture in this program that we will live to regret.

That, Mr. President, could be the "dangerous precedent."

The PRESIDING OFFICER. The time of the Senator has again expired.

Mr. MUSKIE. How much have I used, Mr. President?

The PRESIDING OFFICER. The Senuator has used 25 of his 55 minutes.

Mr. MUSKIE. I yield myself another 10 minutes.

As early as 1964 many naval officers and shipbuilders, including the top management of Bath Iron Works Corp., were questioning the wisdom of awarding entire ship procurements to a single company. In that year Bath bid on eight of 17 LST's and its price for each of eight was more than $500,000 per ship under the next lowest offer. But the award was made for all 17 ships to one other shipbuilding company.

I then questioned Mr. McNamara, the Secretary of Defense, as to the prudence of this type of concentration of ship awards. He told me and Bath's management that this would be the policy for ship procurement and left no alternative—either compete for the large contracts or get out of the business of building ships for the Navy.

History has recorded the tremendous problems inherent in this procurement policy and we all now recognize the schedule slippages, quality problems and staggering overruns which have plagued the Navy in recent years. We are now hundreds of ship-years late and overruns exceed a billion dollars.

There may be benefits to be gained by ship purchases using multiyear funding but there is clear evidence that award of multiple numbers of ships to a company with a large and diverse backlog presents overwhelming managerial problems which come home to roost for the Navy and Congress.

The problem is not isolated but has hit every shipyard which has taken on more work than it could digest, including Avondale, Lockheed, General Dynamics, and even Litton.

Litton, for example, with its present backlog of over $1.5 billion, exclusive of this contract, is today experiencing severe delivery problems which have been well publicized. The Baltimore Sun of August 25 this year speaks of a known 8-month delay per ship in an eight-ship maritime contract and the owners of the steamship lines for whom the ships are intended speculate on probable delays of a year or more per ship. These ships will come ahead of the Navy's billion-dollar-plus LHA program already under contract for that same facility, let alone the DD–963 program.

Litton excuses the delays based on labor difficulties and an act of God, Hurricane Camille. But it is for these very reasons that we cannot permit our entire destroyer program to be tied up in one plant along with submarines, LHA's, and other types of naval ships.

Another hurricane hit Avondale's shipyard in the 1960's and reputedly damaged 18 ships under construction, sinking several and blowing others aground.

Acts of God, Mr. President, can disrupt any single operation as could a national emergency, but, at the risk of using a trite phrase, I feel compelled to ask why we knowingly place all of our eggs in one basket, when with advance planning these problems can be softened by geographical distribution.

We are also well aware of manpower difficulties tied to defense contracts in certain areas and the numerous problems inherent in dealing with an unskilled work force built up virtually overnight. Litton's labor and recruiting problems are well known in the South under their present backlog, let alone the added requirement for 4,000 new employees needed to take on the DD–963 contract.

Litton's backlog, in effect worth over $1.5 billion, even without the inclusion of any destroyers, extends well into 1975. Beyond this, Litton, is one of three qualified submarine builders, is today competing for part of a 10-ship submarine program expected to be awarded within weeks.

The record shows that Litton's management and work force are now stretched beyond their ability to perform, even without the addition of a prime contract for 15 destroyers, let alone 30.

For the above reasons, I have introduced an amendment to the military procurement bill which would provide:

That none of the funds authorized by this Act may be expended for the procurement of DD 963 class destroyers unless (1) the prime contractor with whom the United States contracts for the construction of such destroyers is required under the terms of such contract to subcontract to another United States shipyard and (2) the total number of such destroyers set forth under the terms of the prime contract is divided substantially equally between the prime contractor and subcontractor.

My amendment would support:

The concept of a single design for all 30 ships;

The utilization of a central procurement group to purchase 30 shipsets of machinery and equipment;

The standardization of ships within a single class;

The economies of production which

can be derived from construction of 15 ships of the same class in a single facility;

The modernization of more than one shipyard;

A broader and less risky distribution of this defense contract;

The maintenance of a competitive shipbuilding environment;

Lowest long range ship procurement costs to the Government.

Even on the 30-ship procurement at issue, I cannot accept the unsupported estimates that costs would increase by hundreds of millions if the contract is divided. Costs may increase modestly because of shorter learning curves, but this is a small price to pay for the many other benefits of a split buy—and even this increase will be minimized by a tough competition, including perhaps six or more potential destroyer builders, and there will be lasting long term advantages.

All qualified bidders would have a fair opportunity to compete for the subcontracted ships in open competitive bidding supervised by the prime contractor and the Navy. Clearly, the long term interests of the Government, the economy, industrial growth, and national security are best served by such a reasonable division.

And so I submit that the approach I have offered is reasonable. It is prudent. It is fair. And it should be enacted into law.

I reserve the remainder of my time.

EXHIBIT 1

ARTICLE XXVI. LEGISLATION REQUIRING SUBCONTRACTING COMPLETE VESSELS

(a) The Government shall have the right to require the Contractor to subcontract the construction of a quantity of complete vessels as may be necessary to comply with the legislation referred to in the premises hereof. The Contracting Officer may require the Contractor to solicit all shipbuilders on the Naval Ship Systems Command's bidders list for destroyers for one or more subcontracts. It is contemplated that such request will not be made until after enactment of the Department of Defense Appropriation Act, 1971. The Contracting Officer shall exercise the right to require subcontracting of complete vessels by notifying the Contractor in writing not later than 15 July 1971, unless said date is extended by mutual agreement. Such notification shall (i) designate the quantity of vessels and fiscal year increments to be subcontracted and (ii) specify the number of shipbuilders among whom the quantity is to be devided and the number of vessels to be subcontracted to each such shipbuilder.

(b) The subcontract(s) for construction of complete vessels shall be subject to Clause 59 of the General Provisions entitled "Subcontracts," and advance consent to the subcontract(s) by the Procuring Contracting Officer must be obtained. Any such subcontract shall contain a provision for upward and downward escalation on account of labor and material which shall be similiar to the Article of this contract entitled "Compensation Adjustments (Labor and Material)." Said provision must be specifically consented to by the Procuring Contracting Officer.

(c) Notwithstanding the exercise of the right to require subcontracting of complete vessels, all provisions of this contract shall remain in full force and effect, as between the Contractor and the Government, including, but not limited to, the Articles of this contract entitled 'Performance, Maintainability, and Reliability Guarantee,' 'Warranty Period,' 'Total System Responsibility,' and 'Contractor Personnel (Warranty Engineers).'

(d) If the right to require subcontracting of complete vessels is exercised, the delivery schedule set forth in paragraph (b) of the Article entitled 'Delivery' shall remain unchanged unless the parties otherwise mutually agree, but the two lines in said paragraph reading:

'shall be delivered to the Government at the Contractor's shipyard in accordance with the following schedule.'

shall be revised to read as follows:

'shall be delivered in accordance with the following schedule to the Government at the shipyard of the Contractor or, for subcontracted vessels, at the shipyard(s) of the vessel subcontractor(s) except that any vessel subcontracted to a shipbuilder located on the Great Lakes, shall be delivered at the U.S. Naval Shipyard, Boston, Massachusetts.'

(e) If the right to require subcontracting of complete vessels is exercised, the parties hereby mutually agree that equitable adjustments for the contractor's increased costs shall be established in accordance with the procedures provided for in the clause of the General Provisions entitled 'Changes.' Said adjustments shall include, but not be limited to, adjustments in initial target cost, target profit, target price and ceiling price and cancellation ceilings. Failure to agree on any such equitable adjustment shall be subject to the "dispute" clause of the General Provisions.

(f) If the right to require subcontracting of complete vessels is exercised, additional revisions, changes or modifications to said Articles or to other Articles and clauses of this contract may be made without further consideration, as the parties may mutually agree.

(g) The Contracting Officer may require the Contractor to submit proposed revisions to the DD Program Plans referenced in Article I(b) of this contract which would be necessary or desirable in the event of the exercise of the right to require subcontracting of complete vessels. It is anticipated that the Contracting Officer will not so require until after enactment of the Department of Defense Appropriation Act, 1971.

(h) If the Contracting Officer requires the Contractor to solicit shipbuilders as provided in paragraph (a) of this Article, or to revise the DD Program Plans, as provided for in paragraph (g), or both, and if the Contracting Officer does not exercise the right to require the subcontracting of complete vessels or approve the proposed shipbuilding subcontract(s), then the Contractor shall be compensated for the work involved in complying with such requirement(s) in the same manner and to the same extent as if such requirement(s) were Class I ECP(s) requested by the Contracting Officer but not incorporated into the contract (see paragraph (e) of article XXX entitled "Configuration Control").

In witness whereof, the parties have executed this amendment as of the date of this contract and the Contracting Officer has executed this amendment contemporaneously with his execution of the contract.

Mr. STENNIS. Mr. President, I yield 15 minutes to the Senator from Mississippi (Mr. EASTLAND).

Mr. EASTLAND. Mr. President, the announcement of the Navy's award of the 30-ship DD–963 destroyer contract to the Litton-Ingalls "Shipyard of the Future" at Pascagoula has precipitated a number of conditions.

It represents to the winners the fruition of a great endeavor launched in 1967 by a trail-blazing partnership between Mississippi and the Litton-Ingalls organization. This State-private enterprise venture was aimed at building the vessels of tomorrow and rebuilding the shining tradition of seafaring America.

It represents to the losers the disappointment that always accompanies the end of a long and arduous—and unsuccessful effort.

I can understand the delight of the one and the dismay of the other—but—I must oppose any move to deny to the Pascagoula yard its earned and deserved victory.

Let us trace—very briefly—the course of this procurement and, hopefully, clear up some possible misunderstandings along the way.

Six qualified participants started out together more than 2 years ago in quest of this contract. The intense competition finally narrowed down to Litton and Bath of Maine. The long, established and recognized route toward evaluating and selecting an ultimate builder of the destroyers culminated in the submission—by both parties—of sealed bids which were styled "best and final offer."

What followed is a matter of fact and of record. Litton underbid its competitor by the amazing figure of $9 million per ship, thus affording a saving to this Government in these days of the defense cutback of $270 million.

Now—how is it possible for one shipyard to beat another so badly on this destroyer construction venture?

It is possible and clearly understandable when the facility on our gulf coast is recognized for what it is.

The "Shipyard of the Future" is exactly what its name implies—the wave of the future in the field of ship construction—both military and commercial.

It is the most modern yard in the United States—in the Western Hemisphere—and, possibly—in the world. A matter of vital importance to the timely launching of these versatile destroyers and a significant factor in the Navy's decision in favor of Litton is the fact that the Pascagoula plant is producing ships now.

Mr. President, competition for this assembly line shipyard can come only from a major rebuilding of any yard in being or from a new facility designed around the Litton-Ingalls concept.

A Russian admiral recently made the chilling announcement that the U.S.S.R. possesses "a four-ocean, blue-water navy." If we are to meet the Soviet challenge on the seas—in the military and commercial sectors—and, if we propose to recapture our rightful position in the forefront of maritime nations—then we must adopt modern, low-cost methods. The technology of today—the advances in the art of shipbuilding in Europe and in the Far East—make it imperative for us to utilize entirely new ship construction techniques.

What of the quality of the work in Pascagoula? I have heard our nuclear submarines described as "the most intricate piece of machinery in the world." I am proud to report to the Senate that many nuclear subs have left the Litton yard and serve in our fleet at this hour. Those who launch these great undersea vessels are certainly capable of constructing the finest of destroyers.

Litton-Ingalls entered—with others—a fair and wide open competition for this contract. Their engineers produced a design which earned the Navy's approval. The company submitted the lowest bid and its employees have demonstrated—over the years—their capabilities as builders of the highest quality ocean vessels for the naval and merchant services.

The U.S. Navy—charged by this Congress with the responsibility for the defense at sea of this Nation and of the free world—selected from among the competitors the organization they believed to be best equipped to build the backbone of our destroyer forces at the lowest cost.

Finally, we answer the complaint that this award is too much business to go to one firm with the information that 60 percent of the cost of these destroyers will be spent for material from suppliers outside the shipbuilder's plant. The subcontracts flowing from this procurement will reach into 45 of our States.

Mr. President, here we are, after the fact, after 2 years of evaluation and selection and competition, being asked to take away from Litton-Ingalls that which they earned. The Senate is requested now to negate the competition, to disregard the "best and final offers," and to vacate a contract which was planned for—worked for—and won.

Americans are believers in clean and open competition. I am convinced that one of our principles would be violated if we said, "We want you to enter this long and tough competition, but keep in mind—even if you win on your merits, we may take your victory away from you through legislative action."

A contract, legally, and morally binding, has been awarded on the basis of sealed best and final offers. No sound or valid reason has been offered to cause the Senate to vacate the contract.

In our tradition of equity and in what I firmly believe to be the best interest of our Navy—as well as for the future of our country on the oceans—I urge the rejection of this amendment.

Mr. President, the Navy has furnished some information with respect to questions which were asked of it. One question is as follows:

Recent experience indicates that it is simply not prudent to follow a policy of single source procurement when it can be avoided.

These questions were asked by some of those who object to this procurement.

The Navy's answer is as follows:

The fact that contracts have been issued to single sources for procurement of aircraft and weapon systems is not necessarily the reason for cost growth and performance problems. The problem has been the commitment to production while significant research and development remains unfinished. This is not the case in the destroyer contract which is more suitably termed "a detail design and production" contract. To avoid concurrency, where any technical or schedule risk is involved, preproduction shore site testing has been required or fallback positions have been predetermined. The DD 963 contract also contains milestones which must be met by the contractor before the government becomes committed to fund out-year increments of the contract. Incidentally, a distinction should be made between single source and sole source procurement. The DD 963 contract was the result of an intensive industry-wide competition held under pre-established and published rules. It was not a sole source procurement.

Another question:

By adopting (the) amendment . . . the Navy . . . (can) still realize the benefits sought in current policies, namely:

(4) The economies of production which can be derived from the construction of 15 ships of the same class within a single facility.

(6) The possibility that a second shipyard can proceed with a modernization program based on a 15 ship contract.

That is the big argument made here.

Now here is what the Navy says about that:

NAVY COMMENTS

a. The economies of production in a 15 ship buy cannot equal that obtained in a 30 ship buy from one production source.

b. A 15 ship buy spread over five years, as the Navy now has planned the 30 ship buy, would at best provide one shipyard with three ships a year. This is exactly the case made against shipyard modernization cited in Senator Muskie's remarks on the DDG program. Economies of series production are sensitive to rate of production as well as number of units produced.

Here is another question and objection:

The risks are greater by proceeding with the present plan which calls for the construction of all thirty ships in a single shipyard.

NAVY COMMENT

The risk of placing a large program in a single building facility is no higher than the risk associated with procuring components, such as gears and turbines, from single sources in what is termed "the heavy equipment industries." Sixty percent of the cost of these destroyers will be spent for material from suppliers outside the shipbuilder's plant. We must accept "acts of God" and accommodate to them. That applies to all the industries that will support the destroyer program, including the assembly yard. A program split among several assembly yards will have little impact on minimizing the effects of catastrophies. The suppliers of large components for the destroyers will be the same whether the number of shipyards is one or two or more.

Here is another question:

It certainly appears imprudent to reduce our destroyer building capability to virtually a single source.

That argument is used.

Here is the Navy's reply:

NAVY COMMENT

Awarding a single contract to Litton does not require that all future destroyer contracts must be awarded to Litton. While a destroyer is a complex ship, it does not represent a unique shipbuilding problem. Many yards have built destroyers in the past and many could be available to do so in the future. It must be recognized that the DD 963 contract award is the culmination of an intense competition which started over two years ago with six qualified participants. The remaining five participants are still active today and bidding on other ship programs.

Here is another question:

My discussion with one of the competitors in the DD 963 program . . . indicate that a substantial modernization effort could be carried out based on the award of fifteen ships in this program. This, incidentally, is consistent with the Maritime Administration's rationale that award of contracts for as many as ten to twenty ships at a time is sufficient to encourage the shipbuilding industry to proceed with major facility improvement programs.

Here is the Navy's reply:

NAVY COMMENT

The Maritime Administration Approach to contract awards which encourage facilities modernization is no different from that that has been used by the Navy for the past several years. The Maritime program envisions 300 ships in 10 years. An award of 10 to 20 ships a year then means funding 10 to 20 ships each year. The destroyer program funds ships in increments over a five year period. Splitting the program, therefore, only provides funds for two or three ships a year to any one facility. That is probably not sufficient to encourage significant facilities modernization.

Now, Mr. President, here are bids made by the two companies which they said was the best and final offer, that the Litton bid would save the Government $270 million, $9 million a destroyer.

Under the bid from Bath in Maine, the Navy estimates, if we adopt the amendment, that the costs to the Government would be $225 million to $685 million.

Mr. MUSKIE. Mr. President, will the Senator from Mississippi yield?

Mr. EASTLAND. I yield.

Mr. MUSKIE. I am not aware of any estimate submitted by any of the two final bidders upon which the Navy could base such an estimated increase in costs. I know that the Senator from Mississippi and his colleague (Mr. STENNIS) have used these figures. Would the Senator provide the basis for this estimate of the increased costs so that we may understand it? It seems to be speculation on the basis of anything that I can understand.

Mr. EASTLAND. It is not general speculation. It is based upon the judgment of the U.S. Navy who are in charge of the program and who are doing, in my judgment, a wonderful job and are better qualified than any of us to pass upon it.

Yes, I will attempt to get the basis of that. My colleague (Mr. STENNIS) is in a much better position than I am.

Mr. MUSKIE. May I put my question in a more precise form for the benefit of the Senator. Does the Navy say that it has——

The PRESIDING OFFICER (Mr. BAYH). The time of the Senator has expired. Does he wish to request additional time?

Mr. STENNIS. Mr. President, I yield 2 additional minutes for the Senator's question.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. MUSKIE. Does the Navy say that it received the information from the other bidders upon which the Navy could make an evaluation as to what each might require in terms of cost per ship, if a lesser number than 30 ships were involved?

Mr. EASTLAND. They say that the bid from the shipyard in Bath, Maine, which was submitted as its best and final offer on the 30 ships, would be $9 million a destroyer, or $270 million.

Mr. MUSKIE. What I am asking is

whether the Navy contends that it had a bid from Bath or Litton, or elsewhere, on 30 ships——

Mr. EASTLAND. No, no——

Mr. MUSKIE. Or in an even split, as my amendment proposes?

Mr. EASTLAND. They have said that an even split was unworkable. I have given the reasons the Navy said it was unworkable.

Mr. MUSKIE. Then why did Litton sign a contract to provide for a split if it contends that a split is unworkable?

Mr. EASTLAND. I cannot tell the Senator that. I am telling the Senator what the Navy thinks.

Mr. STENNIS. Mr. President, if I may answer that question right there, as I understand it, the House amendment put it at $10 million. The Navy put that clause in there. But whatever actually it will cost, that would be at the expense of the Federal Government. It would not be at the expense of the contractor, naturally. If the contract requires this additional clause, why Congress has to pay the bill.

Mr. MUSKIE. I understand that, of course.

The PRESIDING OFFICER. The time of the Senator has expired. Is additional time requested?

Mr. MUSKIE. Mr. President, I will take 2 minutes from my own time to answer that.

I understand, of course, that is the case. I discussed that in the prepared remarks I made this morning. But I made two points in response to what the Senator is making:

First, to the best of my knowledge neither of the bidders submitted information to the Navy upon which the Navy could estimate what either bidder would charge per ship for a lesser number of ships than the 30 involved in the contract. If that is the case, the estimate of the increased cost must be based upon speculation.

Second, in response to the Senator from Mississippi (Mr. STENNIS), I have argued in my original remarks this morning that the minimal increase of cost that this kind of bid would involve would be more than offset by the long-range savings through the competitive situation in the shipyards.

Mr. EASTLAND. We cannot do that by building 15 ships a year.

Mr. MUSKIE. I am talking about a 15–15 split. The Fitzhugh committee said that it would not award more than 10 ships in a multiple award to a single shipyard.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EASTLAND. Mr. President, as I recall, some of the staff members said that. However, the panel did not pass upon it. The only thing involved here is 30 destroyers.

Mr. MUSKIE. Mr. President, the full report of the panel does not include the subcommitte report. But what is contained in the full report is fully consistent with and reflects the subcommittee report from which I have read. It does not deny or challenge it or raise a question about it. It reflects and reaches the same general conclusions.

Mr. EASTLAND. Mr. President, the Navy is the best judge of this whole matter. They know more about it than my friend, the Senator from Maine. They know more about it than I do.

Mr. MUSKIE. Does that mean that we should abdicate our duty here today?

Mr. EASTLAND. After bids are let and a company submits its best and final offer and loses, then I think that should be the end of it.

To conclude my prepared statement:

QUESTION

The award of the thirty ship DD 963 contract to Litton will drive that company to recruit approximately 4,000 new employees in an area already stretched to supply the skilled personnel needed to accomplish their present backlog.

NAVY COMMENT

The availability of manpower was carefully considered in the source selection process. It is noted that peak personnel needs occur four years from now and a buildup of 4,000 people in that time is eminently practicable. The work of the State of Mississippi and the contractor's planning approved by the U.S. Department of Commerce provide Congress with the assurance needed that the social and economic aspects of this contract award have been fully taken into account.

QUESTION

For these reasons, it makes real sense to divide the contract, and the national interest can be served by acting before the fact rather than waiting one or more years before inevitable problems to arise. Then we will all wonder why Congress lacked the initiative to act at a time when something meaningful could have been done to improve the prospects of success in this destroyer construction program.

NAVY COMMENT

It should be noted that in a peacetime environment it is most important that the necessary defense capability be developed at minimum cost. The series production approach of standardized ships is the most significant factor in achieving that objective. One of the critical paths in the shipbuilding process is the furnishing of material by subcontractors and vendors. In shipbuilding, the governing factor is the production rate of the heavy equipment industry, the manufacturers of special gears, turbines, etc. The suppliers rates of delivery actually governs the rate of ship deliveries. This is true for government furnished weapons as well as for contractor furnished equipment. Therefore, if the destroyer program were divided among a number of builders with the goal of standardized ships still a requirement, it would be necessary to restrict construction in any one facility to an inefficient, sub-optimal rate because of the heavy equipment industry's inability to meet the production requirements. It has further been shown that in a wartime environment, under mobilization conditions, shipbuilding facilities can be activated faster than the pipeline of critical components can be filled. There are, therefore, no compelling defense reasons for using forced or uneconomical contract award practices in order to maintain warship construction facilities in a nonmobilization situation.

Finally, it must be pointed out that the proposed Muskie amendment would increase the cost of the 30 ship program by somewhat between $225M and $685M, depending on the number of ships involved in the split and other factors. The national interests, including that of the shipbuilding industry as a whole, would be better served by using the dollars which would be required to implement split construction of the DD 963 class, for new ship programs, open to competition of all builders, rather than requiring our new destroyers to cost more than now contracted for.

Mr. MUSKIE. Mr. President, I yield myself an additional minute.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 additional minute.

Mr. MUSKIE. Mr. President, I do not accept the thesis of infallibility of the Navy in this area or the Defense Department, for that matter, may I say to the distinguished Senator from Mississippi, and I doubt that he does.

Mr. President, I ask unanimous consent that my amendment, as modified, be printed for the availability of Senators tomorrow.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 15 minutes in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 15 minutes.

Mr. STENNIS. Mr. President, I want to make it very clear indeed at the very beginning that anything I say or do or think is not in derogation of the fine shipyard in Bath, Maine. They have a fine record. They are key people in the industry. They are well represented on the floor. The Senator from Maine (Mrs. SMITH) is one of the most valuable members of the minority on our Armed Services Committee. We greatly appreciate her fine services.

The junior Senator from Maine and I work on various matters together. We disagree on this. However, anything that I say is not meant to cast any reflection upon him in any way. I am sure that each of the Senators from Maine understands that. And I want all other Senators to be sure to understand it also.

Mr. President, the Senator from Maine (Mr. MUSKIE) told me on Thursday when we agreed on a time limitation, that he expected to submit a modified amendment. That is exactly what he has done today. It is an amendment that he was courteous enough to give me a copy of before we agreed on the time limitation. We had to know what we were going to pass on. I want to personally thank him for that courtesy.

If the Senator will permit me, on my time, to ask him some questions about this modified amendment that he is standing on today, I would be glad to do so.

Mr. President, in the beginning of his remarks, the Senator from Maine (Mr. MUSKIE) referred to the prime contractor and indicated, as I understood, that Litton would be the prime contractor. Presently Litton is the one that has the contract.

Would the Senator explain a little further what he had in mind under the revised amendment?

Mr. MUSKIE. Mr. President, the Senator is correct that this was not left on doubt by the original amendment. The original amendment provided two prime subcontractors. However, I was persuaded as I studied the question further to modify the amendment in this way to provide for one prime contractor, one design, Litton being that prime con-

tractor and Litton's design being that design. It offered a savings that we ought not to ignore.

Mr. STENNIS. Mr. President, does the Senator's amendment leave Litton Ingalls with the contract they have now, but reducing the number of destroyers or ships to be built to 15?

Mr. MUSKIE. Mr. President, I am not too familiar with the Litton contract. It is conceivable, of course, that this amendment in its impact upon the contract would require some modifications. I would have no judgment on that. But essentially I would think that the contract would govern the modifications bearing upon the costs, and so on. I would expect that there would be modifications.

Mr. STENNIS. Mr. President, what guarantee or what assurance would this amendment give that Litton Ingalls Industries would be left in with a contract of any kind and would not have to start all over to compete again on the new terms?

Mr. MUSKIE. The Senator has asked my intention. I stated my intention and understanding. The language is as follows:

Provided, That none of the funds authorized by this Act may be expended for the procurement of DD 963 class destroyers unless (1) the prime contractor with whom the United States contracts for the construction of such destroyers is required under the terms of such contract to subcontract to another United States shipyard . . .

This amendment does not by its terms void the existing contract. I would think that the reference contained in the language that I have just read indicates quite clearly that the prime contractor intended is Litton Industries. At least, that is my intention. And I would be surprised if the Navy were to interpret it otherwise.

Mr. STENNIS. Mr. President, I think that is a vital point that we must know about for certain. I am certain about the Senator's intentions here. But the language says: "unless (1) the prime contractor with whom the United States contracts for the construction of such destroyers."

That certainly permits reasonable interpretation, it seems to me, that that refers to a future contract, a future prime contract, rather than the contract that is in being.

If the Senator means, though, that he is going to keep the Litton and Ingalls contract and they will be the prime contractors for at least half of the contracts, why we ought to know that, or will this totally set aside the contract, and everybody would start over again?

Mr. MUSKIE. My intention is it should not set aside the contract. It is not my purpose that the ambiguity to which the Senator refers would have that effect. I would be glad to consider any clarification of the language which would reassure the Senator on that point.

I do not personally conceive that the contract would be set aside and the process started over. That would not be in the national interest. That is not my intention and I do not think that should be done.

Since Litton is not specifically mentioned in the amendment, I can see the ambiguity to which the Senator refers.

Mr. STENNIS. The Senator made his position clear and I thank him for that.

Second, if Litton is to continue as the prime contractor but required to subcontract out one-half of it, would the Senator expect Litton's price to be the same per ship under the new arrangement as it is under the contract as made?

Mr. MUSKIE. I would expect not.

Mr. STENNIS. The Senator would expect Litton to receive more money per ship than under the contract they have now?

Mr. MUSKIE. I would expect with the shorter learning curve that result would follow.

Mr. STENNIS. That would involve negotiating with Litton on a new price basis; the Navy and Litton would negotiate on a new price basis?

Mr. MUSKIE. Precisely, and I would say on that point there is already, as a result of four pricing rounds, sufficient information available to the Navy and the contractors so that it could not be said Litton would have a blank check in that respect. I think there is a basis for negotiations that would adequately protect Government interests.

Mr. STENNIS. Who would negotiate with this subcontractor? Would that be Litton or the Navy?

Mr. MUSKIE. As the amendment is worded, as I understand it, the other 15 ships would be subject to competitive bidding.

Mr. STENNIS. But who would conduct this competitive bidding and the negotiations and make the contract? Would that be Litton or the Navy?

Mr. MUSKIE. I would expect, as I fully understand the language in the Litton contract, to which I referred in my remarks, that the Navy would be in the driver's seat in working out the arrangements.

Mr. STENNIS. Who would pay the bill with respect to different costs or additional costs that might be incurred due to this subcontractor being brought in?

Mr. MUSKIE. If there were additional costs, of course, the Navy would.

Mr. STENNIS. Does the Senator estimate there would not be additional costs if the contractor was brought in, or how much does he estimate those costs to be?

Mr. MUSKIE. I do not think there is any basis for making those estimates, any more than the Senator or I could answer his earlier question with respect to the increase in price per ship Litton might get with a split in the contract. These learning curves produce different results and, as the distinguished Senator from Mississippi (Mr. EASTLAND) noted, I am not an expert in this field and I would not make that projection.

But in the price proposals of both contracts, in the event Bath should prove to be the contractor, there is sufficient information to protect the public interest in that respect.

As I said in my statement, splitting the contract with the two, with shorter learning periods, would indicate there would be some increase in cost per ship. In my judgment, that would be offset by the value of retaining a competitive situation in the industry; and second, the long-range procurement savings when there are follow-on contracts. This is the balance.

Mr. STENNIS. At the same time, as I understand the Senator, and he has been very frank about it, under his amendment the Navy would owe some additional money, the amount unknown, to Litton-Ingalls, the prime contractor, because of things which would cost more and also it probably would cost more for the subcontractor per ship than the present bid.

Mr. MUSKIE. We do not know the result of the competitive bidding for those 15 ships. It is conceivable, with the price picture that is now a public record, as it emerged from this competition, that bidding on the other 15 ships could produce a lower price. I am not in a position to project that.

The important point is to retain competitive bidding and that would occur in the competitive bidding for the other 15 ships.

Mr. STENNIS. What would be the responsibility of the prime contractor to the Navy, to the Government, for the production of the ships that are subcontracted out to the subcontractor?

Mr. MUSKIE. To the extent that subject is covered by the provision in the contract to which both of us have already referred, that contract would be the best guide. To the extent to which the details are not provided in the amendment, I would assume it would have to be worked out.

Mr. STENNIS. Under the Senator's amendment, the prime contractor would carry a responsibility for the production as produced by the subcontractor. Is that correct?

Mr. MUSKIE. I am not sure what the contract states on that point.

Mr. STENNIS. I am talking about the Senator's amendment.

Mr. MUSKIE. The amendment anticipates this possibility of legislation, and works out in some detail, which cover two very closely printed pages, the mechanics of adjusting to such legislation that the Navy and Litton envisaged when they entered into the contract. I am not sure of those details sufficiently to act as an expert in response to such detailed questioning. I have had the provision printed in the RECORD for the Senate to study.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself 10 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 additional minutes.

Mr. STENNIS. I thank the Senator. My questions were directed as to the impact on the situation, the contracts, and so forth, under the Senator's amendment, and not under any existing contract that is now going to be abrogated this month. I will have some evidence on the cost matter that will be accurate.

Mr. MUSKIE. It might be helpful to Senators if I repeated this provision in the contract:

The government shall have the right to require the contractor to subcontract the construction of a quantity of complete vessels as may be necessary to comply with the legislation referred to in the premises hereof.

That is a direct reference to the kind of legislation we are discussing. It was in anticipation of this legislation that the two pages of details were included in the contract. If legislation of this kind is enacted by Congress, and Litton remains the prime contractor in accordance with the intention of both of us, this provision of the contract would come into play.

Mr. STENNIS. I thank the Senator. I wish to review briefly what has happened. There is nothing new about this matter. As early as 1966 the Navy made the decision that ships which are not unusually complicated but which are greatly needed in a modern version, would be let out under one contract. They announced that in their original statements. They wanted prospective bidders to come in and submit a design and compete, and it was in writing from the very beginning. All parties understood it because they all read those proposals that the whole matter would be based on the idea that if there was an award it would go to one shipyard. Everyone knew that.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. STENNIS. I yield briefly. My time is running away.

Mr. MUSKIE. It was my understanding over the 3 to 4 years that I have been close to this matter that there has been speculation in the industry almost constantly as to what might result in a split between two or three possible contractors?

Is the Senator saying Litton was unaware of that possibility?

Mr. STENNIS. I am just citing the facts from the record. The speculation was that Bath was going to get the contract. I noticed that in many newspapers. But it proved to be speculation, and the price difference was what caused the difference.

These six contractors came in, under that condition, from the very beginning, the competition was later reduced to three, as is customary, and later two, Bath and Litton, both capable designs were approved, everything about it was approved, and finally, as the Senator said, they called for the best and final bid. That was, I believe, in March of this year.

There never was any change in the ground rules. There never was anything to the contrary. I have never heard it disputed that there was any kind of understanding but that that rule prevailed and the contract was awarded when those lower bids came in.

During the course of that, Congress passed on the question of whether it would be a sole contract three or four times, I know. In appropriating money these questions would come up. Last year, it came up in the conference between the House and the Senate on the authorization bill, and I have a copy here of what was before us in the form of a House amendment. That was considered by the Congress, and was dropped, and they stayed with the sole contractor concept as to those ships.

There is no doubt about that. It is reflected in the report of the House conferees. I think it is covered here in the statement in the conference report. Bath knew that. Everyone knew it who was familiar with the subject matter.

Now, after the contract is finally let, we have the situation as is presented here today.

I want to thank the Senator again for advising me, before we agreed on the time limitation, about his new amendment. I sent it over to the ones who are most familiar with the entire subject, the Navy. We were going to start debate this morning at 10 o'clock; I had to know what the facts are.

Let me point out that this matter has been handled from the very beginning in two different administrations. It has been handled by two Secretaries of Defense. It has been handled by two Secretaries of the Navy. It was handled under Admiral Moorer, who was Chief of Naval Operations, until just before this contract was actually made. He was selected by the President of the United States to be Chairman of the Joint Chiefs of Staff. His nomination was confirmed unanimously by the Armed Services Committee and here on the floor of the Senate, amidst many compliments. I know, too, that Mr. Packard, who has proven to be a man of exceptional ability in this field, concerned himself with the contract. So the judgment of all these people was involved.

It was reported to the General Accounting Office on the idea that the low bid might be a "buy-in." That is a term that has been thrown around here. It means a deliberate buying in, bidding too low, in order to get the foot in the door and make up for it later in some way.

The General Accounting Office is made up of rather competent people, led by a fine and capable man. They went into it fully. They dug back into it. Their report says, in effect, that there is justification for this lower bid. They say, in effect, it was not a "buy-in." That is about as strong evidence as one could find quickly.

So this case comes before the Senate on what are proven, essential facts. It boils down to the fact that we would be setting a precedent here which would affect all contractors, whether the contracts are for airplanes, tanks, ships, missiles, or whatever they are; that if they compete and do not get the contract, they can, nevertheless, come to the floor of the Senate and get an amendment adopted that will set the contract aside and they will have another chance. Where is that going to leave the Members of this body? They will be approached all the time by disappointed contractors in their States saying, "You want to get this set aside." Where does that leave the contractors as a whole in the field of military construction? So a new precedent would be established here, a new rule of the game, under which Boeing, McDonnell, and the rest of them, trying to get contracts for missiles, submarines, and everything else, would think they were immune. They are all involved here. If this contract is set aside on these facts, they will not know where they are, and they will not know where the Navy or any other branch of the service is, when they bid. No Secretary of Defense will know where he is when he is trying to negotiate to get a good price for the Government. He would know that he would be subject to being overruled and having his decision set aside. That is what we are plowing into right now. I am not referring to Maine, Mississippi, or any other State. We have to represent the Nation and decide what is best for the Government. There is nothing that would so blow up the whole concept than for us to come along now on these facts and set a precedent like this.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. STENNIS. May I proceed? A good part of my time has been used up.

The PRESIDING OFFICER. The time of the Senator has expired. Does the Senator yield himself additional time?

Mrs. SMITH of Maine. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, I will yield to either Senator from Maine for a brief question. I did not know my time was up. I will yield the floor, unless the Senator from Maine wants to ask a question.

Mrs. SMITH of Maine. Mr. President, I would like to ask the Senator from Mississippi if he will cite or read from the GAO report that part that he referred to which said this was not a "buy-in."

Mr. STENNIS. Mr. President, I yield myself 5 minutes.

I said the general substance of it, the general meaning of it, as I understood, was that it was not a "buy-in," because the facts justify it, as they found it. The part of the bid that was based on cost of materials—and they were figuring a lower interest for one thing—they could not attack. I refer to materials and supplies, and not firm contracts, but propositions they had with subcontractors. I have an itemized list of those amounts. I cannot put my hand on it right now, but I will come back to that and speak more in detail on that, as I did the other day.

Mrs. SMITH of Maine. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator.

Mrs. SMITH of Maine. Then the distinguished Senator would say that that was his interpretation of the GAO report, that it states it was not a buy-in? That is rather a convenient interpretation; we will leave it at that.

Mr. STENNIS. Yes. I will put it this way: My interpretation, as well as that of my advisers and the others I have to help me pass on this issue, and also a conference I had with those men after that report was in as to what it meant, with particular reference to the buy-in.

As I understand them, they give this contract a clean bill of health on that score. Certainly there are no findings against it, and I do not believe that their report is unfair, although the Senator from Maine doubtless has another interpretation.

Mrs. SMITH of Maine. Mr. President, I would only say that I, too, had a conference with the same gentlemen, and my interpretation was entirely different from that of the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator very much.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. STENNIS. How much?

The PRESIDING OFFICER. A minute and a half remain of the last 5 minutes the Senator yielded himself.

Mr. STENNIS. Excuse me; how much time in all do I have remaining?

The PRESIDING OFFICER. Three and one-half minutes.

Mr. STENNIS. Mr. President, I have a letter here, that I have referred to heretofore, from Mr. Warner, the Acting Secretary of the Navy, with reference to the amendment in its present form, that is, the revised form as put in by the Senator. I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, D.C., August 29, 1970.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary of the Navy, John H. Chafee, recently submitted the Department of Defense position on Amendment No. 811 to HR 17123. You have advised that there may be a change to Amendment No. 811 wherein the prime contractor would be directed to subcontract half of the procurement of the DD 963 ships to another builder. The DOD position on this proposed change is forwarded herewith as you requested.

There is general agreement in industry that a shipbuilder requires a sizable production commitment if he is to be able to produce ships in the most economical manner. This fact is borne out by studies by Webb Institute and the Maritime Administration, as well as by Navy and the shipbuilding industry itself. From the beginning of the DX (DD 963) program in 1966, the Secretary of Defense stated repeatedly that the approach to this program acquisition would centralize the design and production of the total program in one prime contractor. The Navy advised Congress of this intent during hearings in 1967 and 1968, and Congress strongly supported the program. Also, in its consideration of the Military Authorization Bill, the first session of the 91st Congress in Joint Conference eliminated a provision from the House Bill which would have required the DD 963 ships to be built in three shipyards.

Thus, the Congress has been fully informed of the Navy's procurement plan since 1967. It supported the Navy's position of awarding the full contract to one builder when it authorized and appropriated long-lead funds for the program in FY 69, and again when it authorized and appropriated full funding for the first three ships in FY 70, and at the same time eliminated the principle of split procurement referred to above.

A change to the present procurement plan, as proposed by the revised Amendment, would result in serious program disruption and essentially nullifying most of the benefits of competition and series production. Splitting the program between two yards would reduce learning benefits, including start-up and tooling in two yards vice one, and production efficiency. Also, reducing the production quantity and rate of the prime contractor to less than now planned would result in a less economical production. All of the above would significantly increase program costs.

Subcontracting half of the ships would involve a 9–10 year commitment of the prime contractor's ultimate responsibility for the performance, schedule and cost control of a large number of ships built by another shipbuilder. Realistically, to assume this responsibility would involve committing large numbers of top professional managers, supervisors and technicians with no productive return to the prime contractor. The result would be a dilution of management effectiveness and an increase in program costs.

The actual cost impact of the proposed Amendment would not be known until the Government negotiates with the prime contractor—but it is clear that the costs could be substantially higher than even the $225 million increase which has been estimated for up to a 20/10 split of the program. Without a significant increase in program funding, the use of a second shipbuilder will substantially decrease the number of ships the Navy will be able to procure.

The Navy has been falling behind year after year in keeping up with its requirements for new construction to fulfill urgent Fleet needs. In the judgment of the Department of Defense the additional funds required to implement the split procurement would better be used to provide additional ships so badly needed by the Navy. Such procurement would, of course, be in competition open to all builders and would thus help the U.S. shipbuilding industry.

For these reasons, the Department of Defense is opposed to the proposed change requiring that the procurement of the DD 963 class ships be split between two shipyards.

Sincerely yours,

JOHN W. WARNER,
Acting Secretary of the Navy.

Mr. STENNIS. Mr. President, reading some of the pertinent sentences here, the letter says:

There is general agreement in industry that a shipbuilder requires a sizable production commitment if he is to be able to produce ships in the most economical manner. This fact is borne out by studies by Webb Institute and the Maritime Administration, as well as by Navy and the shipbuilding industry itself. From the beginning of the DX (DD 963) program in 1966, the Secretary of Defense stated repeatedly that the approach to this program acquisition would centralize the design and production of the total program in one prime contractor. The Navy advised Congress of this intent during hearings in 1967 and 1968, and Congress strongly supported the program. Also, in its consideration of the Military Authorization Bill, the first session of the 91st Congress in Joint Conference eliminated a provision from the House Bill which would have required the DD 963 ships to be built in three shipyards.

Thus, the Congress has been fully informed of the Navy's procurement plan since 1967.

The rest of these facts will speak for themselves, Mr. President.

The PRESIDING OFFICER. The Chair advises the Senator from Mississippi, relative to the time situation, since he requested that information a moment ago, that his 5 minutes have expired, and he now has 2 minutes remaining in his allotment of time between now and 4 o'clock.

Mr. STENNIS. I thank the Chair. I reserve those 2 minutes.

Mr. MUSKIE. Mr. President, I may have some time for the Senator from Mississippi before 12 o'clock.

Mr. STENNIS. I thank the Senator.

Mr. MUSKIE. First of all, I yield myself 5 minutes on the question of the rules of the game which the distinguished Senator from Mississippi has raised.

The fact is that over the past 3 or 4 years, as competition has moved along from the time when there were six shipyards involved to the time when there were three, down to the time when there were only two, there was speculation all the time, well known to the industry and to all parties who were in competition, that this contract might eventually be divided. Because of its magnitude, because of the importance of spreading our destroyer-building capacity geographically, and for many other reasons I have stated here this morning, that speculation has been underway. It was very strong in the weeks just preceding the final award.

I think there was some element of surprise in the reaction to the decision finally to seize on one shipyard. The fact is, as reflected by the GAO report, that the Navy apparently never did consider splitting this contract among two or more yards.

That is all the more reason, Mr. President, why Congress should consider the implications of the failure to split.

In my judgment, for the reasons stated in the Fitzhugh report and the McNeil subcommittee report, the Navy should have considered, in a way that it apparently did not, the factors which I have undertaken to spell out here this morning, and which those two reports spell out in such detail.

It is important to preserve competition in this shipbuilding field in the United States. The McNeil report and the Fitzhugh report indicate that clearly.

The Senator speaks of surprise, and the fact that the award has been given, and poor losers should not now come forward with proposals of this kind.

Let me remind the Senator from Mississippi that the House of Representatives had acted on a similar proposal before the contract award. The Navy was on notice and Litton was on notice that at least one House of Congress was concerned about the policy implications of a single shipyard award. The award should not have been made at that time, if the Navy really wanted to focus on the considerations which were troubling Congress. To plead surprise now, at this point, when Litton and the Navy were already on notice that these questions were being raised, I do not think reflects any better faith or good will than the attitude of the Senators who are sponsoring this amendment.

This is an important policy change that is being made with respect to the construction of our destroyers, and it ought not to become frozen in concrete until all of the inputs possible have been made.

The Senator says that Congress has already approved this single ship procurement policy for destroyers; but not in any deliberate, considered way, insofar as the total membership of the House of Representatives and the Senate is concerned.

I do not know what discussion there was of these factors in the conference committee to which the Senator has referred, but the Senate has not deliberated

in any such way on this question. The House of Representatives did, and the House as a whole adopted the amendment dictating the splitting of this contract between the two shipyards. So if there has been any liberation, the deliberation is all on the other side of the position taken by the Senator from Mississippi.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MUSKIE. I yield myself 3 more minutes.

Let me cover one or two points that have been raised by the distinguished Senators from Mississippi. First of all, Senator EASTLAND has said Litton's costs were lower because it has the best U.S. facilities for building these ships.

Let the RECORD show, Mr. President, that both proposals, Bath and Litton, included completely new facilities, designed specifically to build destroyers. Both shipyards would have had modern, up-to-date shipyards. There is nothing to choose between them.

Second, I point to Bath's record in building destroyers. If there is a shipyard in this country identified as a destroyer building yard, it is the Bath Iron Works. Everyone who has ever served in the Navy on a destroyer knows that. Earlier today, I put into the RECORD the fact that Bath has built more than 160 destroyers during its existence. In 1 month during World War II it sent down its ways more destroyers than were built by the entire Japanese Empire in World War II. Bath is a destroyer building shipyard.

So if we talk about which yard can build a better destroyer, if we are to rely on the record, it leads to only one conclusion: Bath. Litton has never designed a destroyer before. Litton has built, at most, two small destroyers. Gibbs and Cox, which designed the Bath ship in this competition, has designed almost all if not all the destroyers that have been built for the U.S. Navy since the 1930's.

If we are talking about quality, record, and performance, Bath has that record of performance, far beyond that of any other shipyard in this country, let alone Litton, which is not a destroyer-building yard and has no record in this respect.

So what we are talking about, Mr. President, is this: The Navy has found that both yards proposed good, acceptable ships. What we are talking about now is not the competition between the two, but whether or not these 30 destroyers are to be built in one yard or in two yards, in the national interest. It is no longer a question of competition between Bath and Litton. There may be questions emerging out of that competition yet to be answered, as my distinguished colleague from Maine has suggested. But now what we are considering, and conceivably for the last time, with the last opportunity to act, is the question of whether or not the Nation's interests are best served by a split in this contract.

I submit that for the reasons I have given earlier, those interests are better served in that respect.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's 3 minutes have expired. The Senator has 8 minutes remaining.

Mr. MUSKIE. May I ask the distinguished Senator from Mississippi whether he would like more time than remains to him?

Mr. STENNIS. Mr. President, how much time do I have?

Mr. MUSKIE. I have 8 minutes, and the Senator from Mississippi has 10. I would be glad to split the time.

The PRESIDING OFFICER. The Senator from Maine has 8 minutes, and the Senator from Mississippi has 2 minutes.

Mr. STENNIS. Does the Senator from Maine want to use more time?

Mr. MUSKIE. I reserve the remainder of my time. I have a few more remarks to make, but they will not consume 8 minutes.

Mr. STENNIS. Does the Senator wish to proceed now?

Mr. MUSKIE. No. I yield at this time.

Mr. STENNIS. Mr. President, I understand that this does not cut off debate on this subject, that tomorrow we will have controlled time.

Referring again to the letter I have just put in the RECORD, Mr. Warner, Acting Secretary of the Navy, says:

> The actual cost impact of the proposed Amendment would not be known until the Government negotiates with the prime contractor—but it is clear that the costs could be substantially higher than even the $225 million increase which has been estimated for up to a 20/10 split of the program. Without a significant increase in program funding the use of a second shipbuilder will substantially decrease the number of ships the Navy will be able to procure.

Now we are getting down to the hard part of this matter. He says a minimum, substantially higher than $225 million. That is a cost increase of a quarter of a billion dollars, we might say. We have been working 5 weeks here in an attempt to reduce this bill. The Senator from Maine voted just the other day for a $5.2 billion decrease, which was all right. But now let us not get the facts mixed up.

This amendment would add hard dollars, at least a quarter of a billion dollars, for this shipbuilding program alone; and I will refer to that again.

I do not think it would be fair to the Senator to ask him if he would have offered this amendment had Bath gotten the contract. I am not asking him that question. He speaks in behalf of a fine company. Nevertheless, they went to bat, they played the game according to the rules, and they lost; and now they want to turn around and say that not only do they want to change the rules but also the score and the result of the game. I do not believe we can do that. We should not set such a precedent, and I do not believe we will.

Mr. President, the distinguished Senator from Maine (Mr. MUSKIE) has now revised his amendment so as to require a subcontract procedure with respect to the DD–963 rather than two separate contracts. This revision has some very significant implications because, by calling for subcontracts, the Senator from Maine must be held to have admitted that the contract with Litton is valid and binding and that there were no irregularities in the industry competition source selection procedure and the award of the contract. This also admits, at least by implication, that there was no "buy-in" on the part of Litton and, additionally, that Ingalls Shipbuilding Division has the capabilities and facilities to carry out the contract and construct ships required by it. These things are implicit in the Senator's amendment because the proposal for a subcontract presumes the existence of a valid prime contract.

Nevertheless, Mr. President, I strongly believe that it would be a very serious mistake for the Senate to adopt the Muskie amendment. If it should become law it would set an extremely bad precedent and throw the entire military contracting procedure into chaos and make a mockery of the defense source selection machinery. I think we should all be aware of this situation.

If we establish the precedent that we can by legislation interfere with contract awards and require subcontracts by the prime contractor, then all defense industries and other Government contractors had better beware.

If we can do this to the DD–963 program, we can also do it to the Air Force's F–15 fighter aircraft program, the contract for which has been awarded to McDonnell Douglas Aircraft Co. of St. Louis, Mo. We can also do it to the Grumman Aircraft Co. at Bethpage, N.Y., which holds the contract for the Navy's F–14 aircraft. We can also do it with respect to the Poseidon missile, the contract for which has peen awarded to Lockheed Aircraft at Sunnyvale, Calif. We can also do it to the B–1 aircraft—the follow-on strategic bomber—the contract for which has been awarded to North American Rockwell at Los Angeles, Calif.

We can also do it with respect to the Navy's S–3A aircraft, the contract for which has been awarded to Lockheed Aircraft Co. at Burbank, Calif. Similar action can be taken with respect to the Airborne Warning and Control System (AWACS), the contract for which has been awarded to the Boeing Co. at Seattle, Wash. It can also be done to the SAM–D ground-to-air missile, the contract for which has been awarded to the Raytheon Co. at Medford, Mass. We can also do it with respect to the Main Battle Tank—MBT–70—the contract for which has been awarded to General Motors Corp. at Cleveland, Ohio.

I think we would all be concerned by a precedent such as this. The point that I am making is that what we are asked to do to the award of the DD–963 destroyer contract today can be done to any other weapon system tomorrow if we establish this precedent. The precedent, in my opinion, would bear bitter fruit which we would live to regret. There is no reasonable rationale or logic whatsoever for the Senate to undertake to pass on contract awards and change the obligations of contracts already entered into by the Government.

Mr. President, although many issues have been raised with respect to the DD–963 contract to Ingalls Shipbuilding Division, the basic and central issue in

question is very clear and simple. That is, that after more than 2 years of intense industry competition, under ground rules established in advance and known to all competitors, Ingalls was awarded the contract. Bath Iron Works of Maine was the losing finalist. What we are really being asked to pass upon is the question of whether or not Bath, after having lost the competition because its bid was not lowest and best, should now by legislative action be awarded a part of the contract it was unable to win in regularly and legally conducted competition. This is what the whole thing boils down to, regardless of any other issues that might be raised.

I think it is far too late in the day for us to adopt an amendment of this nature. As you will recall, last year the House bill contained a provision requiring the construction of the DD–963 in at least three shipyards. This provision was removed in the conference and the House conference report dated November 4, 1969, contains this statement:

> Because of the advanced state of the contracting procedures for this class of destroyers, the conferees agreed to remove this requirement on this class of destroyers at this time.

If the contracting procedures were in an "advanced state" last year, they are certainly far more advanced at this time. As a matter of fact, they are certainly far more advanced at this time. As a matter of fact, the contract has been awarded and the competition has been concluded. While I can understand the desire of the Senator from Maine to obtain a portion of this business for the shipyard located in his State, I think that it would be disruptive in effect, would increase the cost of the program, and would delay ship delivery. Certainly, Litton could not be expected to build 15 ships at the same unit price as it offered to build 30. I am compelled to wonder whether Bath or any other shipbuilder would accept a subcontract for 15 ships at the same unit price bid by Litton for 30 ships.

The Acting Secretary of the Navy has advised me that the actual cost impact of the proposed amendment would not be known until the Government negotiated with the prime contractor. However, he stated that it is clear that the costs could be substantially higher than even the $225 million increase which has been estimated for up to a 20/10 split of the program. Therefore, without a significant increase in program funding, the use of the second shipbuilder will substantially decrease the number of ships the Navy will be able to procure.

We have been hearing a lot of arguments for reducing military spending on the floor of the Senate during the last several weeks while this bill was being considered. Many Members of the Senate have consistently voted for amendments proposing reductions in spending. If these Members are really in favor of economy in defense procurement and reduced spending, then certainly if they are to be consistent, and if they are to vote in accordance to the principles which they have so repeatedly expressed, they cannot and will not support the Muskie amendment.

Within the past few days the Government Accounting Office has submitted a letter report on the investigation which it made of the DD–963 contract. One of the points which it inquired into was the question of the credibility of the "best and final" offer of Litton and the possibility that there was a "buy-in" action on the part of Litton. As a part of the General Accounting Office's investigation into this matter, the Defense Contract Audit Agency made an audit of the difference between the third and the "best and final" offers of Litton on this matter. In general, it found that the "best and final" offer was reasonable, justified, and supportable. The General Accounting Office took no exception to this and, therefore, it appears that the question of a "buy-in" has now been completely laid to rest.

The issue now being urged is with respect to the advisability of the Navy's procurement plan and its potential influence on future competition in the shipbuilding industry. Having been unable to get the contract award by the established and recognized competitive procurement practices, it would appear that Bath now wants the Senate to intervene, upset the award, and give it a share of it. However, I do want to discuss briefly the questions which this issue raises. Let me emphasize, I have only the highest regard for both.

The question of the effects which the procurement approach may have in future competition within the shipbuilding industry is much more a question of judgment and opinion than was the "buy-in" issue. This is reflected by the GAO letter report. Most of the concern voiced by the GAO have been considered by the Navy since the inception of the DD–963 program. The major difference in opinion lies in the evaluation of the extent of risk involved. As was properly stated in the report, the Navy's opinion is that this risk is low, and that the procedures involved in the contract will result in the surfacing of incipient problems in time to solve the problems before the contractor's ability to perform has been jeopardized. It would appear that the Navy was in the best position to make a judgment on this point.

There is general agreement in industry that a shipbuilder requires a sizable production commitment if he is to be able to produce ships in the most economical manner. This fact is borne out by studies by Webb Institute and the Maritime Administration, as well as by the Navy and the shipbuilding industry itself.

From the beginning of the DD–963 program in 1966, the Secretary of Defense stated repeatedly that the approach to this program acquisition would centralize the design and production of the total program in one prime contractor. The Navy advised Congress of this intent during hearings in 1967 and 1968, and Congress strongly supported the program. Congress has been fully informed of the Navy's procurement plans since 1967. In addition, this ground rule, that is, the "all to one builder," was published to industry when the Navy went out with the request for proposals for the DD–963 on February 15, 1968. This ground rule has never changed. It was known to all of the competitors. It was accepted by all of the competitors just as it has been accepted by the Navy, the two Secretaries of Defense, and by the Congress. The Senator from Maine raised no question to his ground rule until after his shipyard lost the award. To adopt his amendment would be a clear case of changing the ground rules after the game is over. I do not believe that the Senate wants to do this.

The fact is, Mr. President, that the procedure used on this program was deliberately intended by the Navy and the Defense Department to be a major departure from prior ship procurement programs. This procedure was followed in recognition of the rising costs of ships and as a result of a specific effort to minimize ship operating costs by having them as nearly identical as possible. The DD–963 program is distinguishable from many large programs—the C–5A, for example—which have been the subject of criticism because this program does not involve any large-scale research and development effort. It is a design and production program—not a research and development program. The production is based on engineering state-of-the-art and the risks associated with it are minimal.

Let me remind the Senate that we very recently had before us the amendment by the distinguished Senator from Delaware (Mr. WILLIAMS) who is justly noted for his rugged honesty and integrity. The purpose of that amendment was to preclude the making of announcements of defense contract awards by Members of Congress and the primary reason advanced in support of the amendment was that it raised the suggestion of political influence if members were permitted to make such announcements. We all agreed with this thought and the amendment was unanimously adopted.

Now we have before us an amendment which would compel a subcontracting of approximately half of the DD–963 destroyer program, despite the contract award which has been made on its merits by the Navy. I can certainly understand that the Senator from Maine wants some of this business to go to his State, but the procedure which he would have us follow does far more than "suggest" political influence. His amendment, if adopted, would be political influence of the most direct, flagrant, and blatant type because the Senate, or a majority of it, will have passed final judgment on a military contract award.

Mr. President, if we adopt this amendment we may as well add another amendment to the bill, to the effect that no contract award by the Defense Department or any other Government agency shall be final or binding until it has been submitted to and approved by the Congress. If we interfere with one Government contract award by compelling the prime contractor to subcontract a portion of it, certainly we are taking upon ourselves the responsibility to look at others. There is certainly no reason to single out this contract which, so far as

the debate here shows, is entirely free of any suspicion or any irregularity whatsoever.

I hope that we will all look to the future and realize that if we establish this precedent that we are going to intervene and require a subcontract in such cases, we are inviting more trouble than can possibly be imagined. The contractor will no longer be certain of his position. He will necessarily have to increase his bid against the contingency that he might be required to subcontract a substantial portion of the program. The question of whether or not there should be subcontracts will no longer be determined upon the merit. It will finally be determined by who has the most votes or the most political influence in Congress. True competitive procurement will go out the window.

Mr. MUSKIE. Mr. President, may I say that on the record I have been opposed to the single-ship procurement policy from the beginning.

I have already recited for the RECORD this morning the circumstances which led to Bath's involvement in this procurement competition. Bath had bid on eight of 17 LST's about 4 years ago, and Bath's per-unit cost was $500,000 lower than that of the next lowest bidder. But because the Department was committed to this total procurement concept, Bath did not get that bid. All 17 ships went to the next lowest bidder.

I got in touch with the Department of Defense to ask specifically whether there was a future for Bath in the shipbuilding industry for the Navy, and we were told, with no options, "Either you get into this our way or get out of the shipbuilding business." This is why Bath was involved—not because I thought it was better to build all these ships in one yard, not because Bath thought it was better, but because there was no other choice.

That does not make it a sound policy, may I say to the distinguished Senator from Mississippi. I say to the Senator that this policy was not adequately reviewed by Congress at that time. We went forward with such a policy as the result of a decision in the executive branch, a policy which I think we ought to review at this time, while we still have a chance.

Let me summarize recent events which have occurred and the reasons why I believe a change in policy is mandatory at this time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4½ minutes.

Mr. MUSKIE. I yield myself 3 minutes.

During the past 3 years the fact that large and diversified shipbuilding backlogs are virtually unmanageable has become clearly evident. Schedule slippages and overruns at shipyards owned by Avondale, General Dynamics, Litton, and Lockheed are a matter of record.

Total package procurement has in large part been discredited, most recently by the Fitzhugh report—just issued this past summer—and the DD–963 program was essentially a total package procurement.

Evidence that the largest American corporation, such as Lockheed, the Penn Central Railroad, General Dynamics, and LTV, are susceptible to failure under certain circumstances has surfaced recently. This fact, in my opinion, makes highly questionable the wisdom of placing too large a percentage of our defense dollars in the hands of a single corporate entity.

The country's economy has taken a serious downswing which makes it more important than before to balance our defense spending geographically.

The Nixon administration's Blue Ribbon Defense Panel, headed by Mr. Fitzhugh, has within weeks recommended that huge defense contracts be divided where possible to avoid overconcentration and to maintain a reasonable mobilization base. If the report of this team of experts had been made 6 weeks earlier and if the Department of Defense had heeded the advice of this committee, it is probable that the Navy would have divided the DD–963 contract. And the contract should be divided now.

I yield to my distinguished colleague from Maine, Senator SMITH.

Mrs. SMITH of Maine. Mr. President, I listened with interest to the distinguished Senator from Mississippi when he stated that the Navy had told him that the increased cost would be $225 million. I think this is somewhat suspect, since Admiral Sonenshein increased that from $225 million to $600 million in about 6 weeks' time.

AMENDMENT NO. 862

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

Under the previous order, the Chair now lays before the Senate amendment No. 862 which the clerk will state.

The assistant legislative clerk read as follows:

SEC. . (a) In accordance with public statements of policy by the President, no funds authorized by this or any other Act may be obligated or expended to maintain a troop level of more than two hundred and eighty thousand armed forces of the United States in Vietnam after April 30, 1971.

(b) After April 30, 1971, funds herein authorized or hereafter appropriated may be expended in connection with activities of American armed forces in and over Indochina only to accomplish the following objectives:

(1) the orderly termination of military operations there and the safe and systematic withdrawal of remaining Armed Forces by December 31, 1971;

(2) to secure the release of prisoners of war;

(3) the provision of asylum for Vietnamese who might be physically endangered by withdrawal of American forces; and

(4) to provide assistance to the Republic of Vietnam consistent with the foregoing objectives.

Provided, however, That if the President, while giving effect to the foregoing paragraphs of this section, finds in meeting the termination date that members of the American Armed Forces are exposed to unanticipated clear and present danger, he may suspend the application of paragraph b(1) for a period of not to exceed sixty days and shall inform the Congress forthwith of his findings; and within ten days following application of the suspension the President may submit recommendations, including (if necessary) a new date applicable to subsection (b)(1) for congressional approval.

Mr. HATFIELD. Mr. President, I yield 30 minutes to the Senator from Iowa (Mr. HUGHES), one of the cosponsors of this amendment.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Oregon for yielding me this time.

Mr. President, as we move to consider the end the war amendment, we get to the target center of what is the overriding issue before the American people today.

Shall we, at long last, take the decisive steps to end American military involvement in Southeast Asia?

Or, shall we continue present policies, which, whatever their merits may be, give no real assurance of total military disengagement?

Whatever else we are accomplishing by this debate, we are keeping faith with the American people by bringing this central issue to a vote.

The debate on our military policies has been long and impassioned between responsible elected Representatives of the people. Representatives who are alike in their devotion to the national interests but deeply divided on exactly what our national interests are and on the policies that will most effectively implement those interests.

I am deeply grateful to the distinguished chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS), and his colleagues of both parties, who have carried the administration's side of this issue, for the fair- and high-minded plane on which they have conducted the debate.

To question the motives of the dedicated men in this Chamber, who have fought the uphill battle against traditional public attitudes to bring about this vote on a definite plan to end the war, would be an incalculable disservice to a free people.

We disagree in matters of judgment—not in fundamental objectives nor in devotion to our country.

I have never met more devoutly patriotic men than the Senator from South Dakota (Mr. MCGOVERN), the Senator from Oregon (Mr. HATFIELD), and the other sponsors of the amendment to end the war.

If I am convinced of anything about the American people, it would be that every responsible American wants to support his President, in time of war, regardless of party differences.

The optimum solution for ending our involvement in Indochina would be for the President to take the necessary moves to get all of our troops out and to create the necessary preconditions for giving peace negotiations a credible chance of success.

I do not question that this is what the President wants.

But one after another of the current news reports tell us the familiar story of increasing involvement, as the dispatch of yesterday that said:

Fresh evidence that American planes are carrying out direct bombing missions in support of the Cambodians came through a Cambodian radio at a government strongpoint near Phnom Penh yesterday.

We are repeatedly told that the only way we can safely withdraw our troops is by extending our engagement.

The pronouncements of the Vice President in his recent trip to Southeast Asia give little solace to those who believe we should get out of Southeast Asia as soon as it can be safely and systematically done.

Although Mr. Nixon acknowledges that the settlement in Indochina must be political, not military, our policies, in point of fact, continue in hot pursuit of a military victory.

The President continues to refer to peace negotiations, and his appointment of Ambassador Bruce to the Paris peace talks was a commendable and statesmanlike move. But at the same time, Mr. Nixon pledges our country to the perpetuation of the Thieu-Ky regime in Saigon. Flatly, this objective and the objective of realistic peace negotiations in Paris are mutually incompatible.

In this country, the pendulum of public opinion about the Indochina war has swung back and forth between deep concern and apathy—or despair. For a number of months, following last November, an almost unbelievable amnesia enveloped the Nation—a lapse of memory about the on-going horror of the killing, maiming, and destruction in Vietnam. Then, for a time, the fog lifted.

The revelations of My Lai shocked us into awareness of how this war is brutalizing our own people. The discovery by news correspondents of the extent of our Government's involvement in Laos aroused new doubts and apprehensions. The invasion of Cambodia was the straw that broke the camel's back.

In the heat of the national concern over the Cambodia invasion, I believe that the passage of the amendment to end the war would have been assured.

Now the cutting edge of the public protest has somewhat dulled, although I am convinced that the deep-lying sentiment is as strong as ever.

In my own State, the untold story, as I see it, is of the peace movement that has emerged in the small communites of middle America—not among the youth, who were already with it, but among the calm and established adult citizens of these communities.

The on-going story of the Indochina war is one of abstract comparatives. There were "fewer casualties" this week than the week before—or than 6 months before. We tend to lose sight of the fact that the men killed are flesh-and-blood people, not statistics, and that for each one killed there are many others horribly maimed or otherwise incapacitated.

But I am convinced that an increasing multitude of people who have been quiescent up to this point are beginning to believe that our continued involvement, reduced in numbers and modified in form though it may be, cannot be justified as being in our national interest.

They no longer can accept the idea that the sacrifice of American lives is justified in our crusade to save Asia from communism—which, in Vietnam, amounts to perpetuating one corrupt, dictatorial military regime against another.

These middle Americans have become aware of what this war is doing to our economy, to our domestic order, to our hopes for meeting vital national needs in education, in welfare, in medical research, in equal opportunity, in the alleviation of poverty, in the preservation of our God-given natural environment.

We cannot take care of our sick and needy, purify our diseased waters, resolve racial tensions, or provide citizens equality of opportunity, because we are fighting a war—a war that many of us believe is not to protect ourselves, but to assert ourselves—in accordance with an outworn militaristic code.

I do not question for a moment the sincerity of those who believe that the President is getting us out of Southeast Asia. I do not question for a moment that this is his intention.

But the overwhelming evidence—the facts—simply do not support the thesis that we are really getting out.

I believe we should withdraw from Southeast Asia, not simply because the continuation and expansion of the conflict are senseless and destructive of our national interest, but because our involvement in civil wars between military dictatorships in a distant continent is wrong—ethically as well as practically wrong.

The effect of the expanding war on our economy, particularly on the prices the middle American is paying at the marketplace, is a compelling consideration. But what really hurts is what this war is doing to twist and dehumanize ourselves and other human beings.

And what really counts is how we are letting our domestic society—the front line of our national defense—disintegrate while we try to solve the political problems of the peoples of Asia who view our intervention with the same enthusiasm with which they would greet an onslaught of the plague.

What a confusion of purpose and idealism we show in the many facets of our war policy in Asia.

In my office recently, a 20-year-old Iowa boy told me:

I can't understand why people don't see that the aim of the so-called Vietnamization is the ultimate in immorality. It is simply an effort not to stop the war, but to shift the burden of the killing from white people to Asians, with the United States paying the bill.

We are the most powerful Nation yet seen by the human race. Yet there are finite limits to our power. Realistically, we cannot impose by military force the kinds of government we want on the countries of Asia. Moreover, we have no God-given right to do this. We have sacrificed 51,000 American lives, more than 260,000 wounded, and upward of $180 billion in resources to perpetuate a military dictatorship in South Vietnam that represents no more than 15 or 20 percent, by estimates, of the South Vietnamese people.

And think of what we have done to the people and the countryside with our strategic and tactical bombings, our napalm, our herbicides, our destruction of whole communities "in order to save them."

President Nixon has now been in office for 588 days. In that time, 12,908 men have died in combat and another 3,000 or so have died in accidents in Vietnam. During the same 588 days, an additional 94,889 men have been wounded.

Mr. Nixon has reduced the level of combat, for which he deserves full credit, but the average daily casualty rates remain at a level that I believe is simply unacceptable. Since January 20, 1969, an average of more than 22 American men have died each day; 165 men have been wounded each day.

Even if that rate should drop further—to 100 casualties a day, or 50—I am sure no one in this Chamber would call that "acceptable." What we need to do is to stop the sacrifice of American lives.

The President's policies have reduced casualties and brought some troops home. But they have not brought us closer to peace and total disengagement. And I am sure that this is what the American people believed Mr. Nixon had in mind when he said 2 years ago that he would end the war.

Mr. President, one of the most amazing and frightening phenomena of our times is the disparity between what our Government tells us is going on in Southeast Asia and what the news reports indicate really is going on.

The war has, in point of fact, expanded. It has widened in Cambodia without the consent of Congress and in direct violation of the will of the Senate. "Air interdiction" of supplies has become tactical support for the Cambodian army. The Washington Evening Star last week reported that the CIA is now operating guerrilla teams in Cambodia, as it has for years in Laos.

The longrun costs of the war are also still increasing. U.S. officials have now recommended an additional $200 million of aid for Cambodia. We are already giving $40 million per year in military aid. Laos is getting $50 million per year.

South Vietnam has requested an extra $200 million in economic aid. It is already receiving a half-billion dollars a year in military aid.

When will it all end?

One fact that seems to have escaped the public attention is that Mr. Nixon, since he has been President, has never, in my opinion, promised to withdraw all American troops from Vietnam. The most he has announced is a reduction to the 280,000 figure included in the present amendment. And newspaper reports suggest that the administration plans to keep residual forces of somewhere between 20,000 and 200,000 men.

Whatever the number of forces we leave in Vietnam, our leaving them spells prolongation, rather than cessation, of our military involvement.

In the course of my life, I have learned to admire men who have the courage to

admit that they have made mistakes. I believe the same truth applies to nations.

Many patriotic Americans believe that we made a catastrophic mistake by getting involved in Vietnam in the first place and that we tragically compounded that mistake by staying there and getting in more deeply.

While the war goes on, our country suffers. We suffer from the loss of 51,000 men who will never return to raise families or help their communities become better places in which to live.

We suffer because 150,000 men have been discharged from the service as invalids, over 10 percent of them totally disabled.

We suffer because the lifeblood needs of our society go unmet so that we can determine the political destinies of Asian peoples who detest us for our intervention.

Apart from all of the heartache, the loss of life and limb, the neglect of vital needs here at home, this war is costing the average American dearly—far beyond what he realizes. It cost the average American family $600 last year. Inflation, fueled by the war, cost the average American family another $350. Prices since 1964 have risen by over 25 percent. The middle American is paying for this war of unclear purpose and no visible end—and it hurts deeply.

What is the prospect if we do not change course?

Studies by Arnold Kuzmack and Charles Shirkey, both formerly with the Office of the Assistant Secretary of Defense for Systems Analysis, have concluded that, even at the current withdrawal rate and assuming no residual forces, 400,000 more Vietnamese will die; 5,400 more Americans will die and 42,500 will be wounded.

Many of these people can be saved—if we are willing to take the decisive step to end the war embodied in this amendment.

At some point, the step must be taken. Why not now?

Mr. DOLE. Mr. President, will the Senator yield for a question?

Mr. HUGHES. Mr. President, I am happy to yield to the distinguished Senator from Kansas for a question.

Mr. DOLE. Mr. President, the so-called end-the-war amendment provides that the war continue until March 1, 1972, as I understand it. How many casualties could be expected during that period of time?

Mr. HUGHES. The projected rate would depend on the rate of withdrawal and the duration of the war. I do not have the calculations before me.

Mr. DOLE. Mr. President, the point I make is that the amendment may be called an end-the-war amendment, but the war would continue under the amendment to March 1, 1972, about 18 months from now. If that is ending the war, it is a long last scene.

Mr. HUGHES. Mr. President, the Senator from Kansas is well aware of the fact that the sponsors of the amendment would like to end the war much sooner and that our amendment would permit an earlier termination. However, realizing the legislative process and the differences existing among the Members of the Senate, we modified the amendment to end the war to provide for the earliest possible total conclusion of the war. That was not the final product which most of us would like to have seen. But nonetheless, it is the best product that we thought we had an opportunity to win with.

Mr. McGOVERN. Mr. President, before the Senator leaves that point, will the Senator yield for a question?

Mr. HUGHES. I am happy to yield to the Senator from South Dakota.

Mr. McGOVERN. With reference to the timetable withdrawal deadline of this amendment would the Senator agree there is nothing in that amendment that requires us to stay that long? As a matter of fact, that is the outside limit unless there is some extension of the deadline by joint action of Congress and the President. But is there not a distinct probability that if we gave notice by passage of this amendment that we were withdrawing all American forces not later than 16 months from now, that would have the effect of inducing both sides to the negotiating table? It would have that effect in the case of Saigon because of the knowledge they could not count on us indefinitely to carry the major burden of the war and, therefore, they would be more inclined to settlement. In the case of Hanoi, by announcing a definite withdrawal timetable would we not remove much of the incentive they have for continuing the war in that it would not be in their interests if they knew we were leaving at a certain time, to be harassing our troops and making it difficult to carry out that withdrawal.

I ask the Senator if this amendment were agreed to would it not have a good chance of bringing about a cessation of hostilities even earlier than the 16-month deadline attached to the amendment?

Mr. HUGHES. Mr. President, I agree with the Senator that the probability is, that if this amendment should become the law of the land, many things would begin immediately to happen that would have force and effect on all nations involved: North Vietnam, South Vietnam, Cambodia, Thailand, as well as the United States, and perhaps also Russia and China with respect to supplies and shipping.

As the Senator pointed out, there is nothing to prohibit an earlier termination, if it is deemed logistically possible—as most of us believe it is—and practical, in trying to bring about a negotiated, diplomatic settlement of the war.

I believe the Senator is correct that Hanoi would appropriately conclude that chances for a negotiated settlement would be increased by the passage of this amendment, but that they would not increase activities against American forces remaining in Vietnam during withdrawal. I think it would have a tremendous impact on the Government of South Vietnam by implying to them that they are not going to be able to dictate a military settlement of the war, but that they must begin to negotiate with the objective of forming a government that is truly representative of the people of South Vietnam. Only through that process can they maintain peace in Vietnam and some hope of a democratic government in the process.

I believe that in our country the by-products would be immediately noticeable. We would see the product of our efforts not only in our young people, but also in large minority groups, which will realize that we are going to redirect our energies to take care of the cancerous problems of this Nation. Many of these things would start immediately upon the signing of the amendment into law.

I think the Senator is correct.

Mr. McGOVERN. It seems to me the converse is true under the present program. The present policy is an open-ended commitment today, and that is really what it is when the President says in effect that we are going to stay there until the South Vietnamese forces are prepared to take over. In other words, our policy is really attached at the present time to the maintenance of the Thieu-Ky regime. That seems to put our troops in a very dangerous position militarily because two things are happening under Vietnamization. On the one hand we are reducing the number of American forces but we are maintaining the same unacceptable political objective as far as the other side is concerned.

We are saying we are going to do whatever is necessary to keep the Thieu-Ky regime in power. That is clear, and it is something the other side will never accept. The war will go on as long as we insist that the Thieu-Ky regime stay in power, and our forces will stay there, if I interpret the President's Vietnamization statements correctly, until we feel that regime is powerful enough to stay in power without us. That, it seems to me, is an invitation to Hanoi and the Vietcong to continue the killing and the military pressure. All of that goes on at the same time we are reducing the level of our military forces in Vietnam. How much easier it would be if we announced that we were pulling out on a certain timetable; that we are not going to insist that the Thieu-Ky regime stay in power, and that we no longer see any political objective there that is worthy of a protracted war. That seems to be a much safer withdrawal posture for our forces.

Would the Senator generally agree with that analysis?

Mr. HUGHES. Yes, I would be in general agreement with the analysis of the Senator.

As the Senator knows, the Senator from Missouri (Mr. EAGLETON) and I introduced a resolution last fall which stated, in effect, that the administration in Saigon, the Thieu-Ky regime, should take all steps necessary to release political prisoners in Saigon, which are estimated variously between 16,000 and 100,000, and to allow free expression of the press. In the last calendar year 14 newspapers have been closed down. Many people who spoke out for peace or who advocated negotiation were put in prison, whether they were running for political office, writing editorials, or speaking in the Parliament of South Vietnam.

By proposing this resolution, we hoped to allow the people there to speak for themselves and to have a better opportunity to realize that our involvement there could be rapidly terminated with security and safety for our troops, and that it would probably be a better political solution for South Vietnam.

I am sure that those results would occur as a result of this amendment also.

Mr. DOLE. Mr President, will the Senator yield?

Mr. HUGHES. As the distinguished Senator knows, we are on controlled time. I am happy to yield to the Senator for a question regarding what I am stating, but he will have all the time he needs, and I assume it will be allotted to him by the chairman of the Committee on Armed Services. I am happy to yield to the Senator for a question.

Mr. DOLE. I understand we are on controlled time, but we should debate the amendment. I will be happy to yield to the Senator when I have time so the merits of the amendment can be debated.

Mr. HUGHES. I thank the distinguished Senator for agreeing to yield to the Senator from Iowa when he has time. I hope he will let me know when he takes the floor so I may have the opportunity.

Mr. DOLE. It will be today.

Mr. HUGHES. I thank the Senator.

Mr. DOLE. Why should the enemy negotiate if told in advance we are to get out not later than March 1, 1972; that is, if we give them notice we are going to pull out regardless, and I assume the Senator admits the amendment amounts to unilateral withdrawal and not one with reciprocity, regardless of the consequences.

Yesterday there was an example of what might happen. There was a shelling of an orphanage and 15 to 20 children were killed. This is the Vietcong terror we have read about and that some believe will never happen if there is a precipitate withdrawal by U.S. forces.

Why should the enemy be told in advance we are going to vacate South Vietnam no later than March 1, 1972?

Mr. HUGHES. I would like to comment that we do not condone the shelling of hospitals by the enemy and the killing and injuring of children any more than we do the indiscriminate bombing by the Vietcong or the North Vietnamese which has taken thousands of lives in Vietnam. The point we make is that we must treat our prisoners of war in such a way that the nations of the world will put pressure upon the North Vietnamese, the Vietcong, and others to treat our prisoners of war in accordance with the provisions of the Geneva Convention.

My point is that the North Vietnamese will not press when we are withdrawing and will be willing to negotiate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUGHES. Mr. President, will the Senator yield me 5 minutes?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from Iowa.

Mr. HUGHES. I thank the distinguished Senator.

The North Vietnamese would understand that we were leaving and that we were leaving on an agreed-to timetable. Negotiations would then proceed, and it would be folly for the North Vietnamese to attempt victory. Negotiations at the peace table, with the North Vietnamese and the National Liberation Front represented, I am convinced, would lead to resolving the issues in a way that has not been attempted up to this time. I do not think that it would result in a hazard or that they would wait to begin a new war.

Mr. DOLE. In effect, we would be negotiating from weakness rather than from strength. That is what the amendment which I designate the amendment to lose the peace does. When we do not announce our timetable, we have some strength which would help bring about negotiations. We have an experienced negotiator there, an outstanding American, Ambassador Bruce. There is some hope that, within some weeks, they will get down to negotiations. In all sincerity, I believe that what we would do by announcing the timetable in advance would be to end any hope of ending the war through negotiations.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. HUGHES. I am glad to yield, but first let me say that I have never doubted the sincerity of the Senator from Kansas. I share the hope that we will have peace in South Vietnam. We have differing views on how that should be done, but his sincerity, and that of any other Senator, is not in doubt.

I yield now to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to add to what the Senator from Iowa has said. Rather than ask the cosponsors of the amendment, the Senator from Kansas should have the administration answer his question, because this question was posed to the Vice President of the United States on CBS's "Face the Nation" on May 3. Peter Lisagor asked the Vice President of the United States why the North Vietnamese would want to negotiate in Paris when Mr. Nixon has already stated that our objective is withdrawal. The Vice President answered that question, as posed this morning by the Senator from Kansas, in this way:

> Let us not forget that we are not the only ones negotiating in Paris. We are not the only ones fighting in Vietnam. After we leave the South Vietnamese will be there for a very long time.

Adding to what the Vice President of the United States said, let me say that there are there 1.25 million men in the armed services and local policemen under the control of the South Vietnamese Government, over five times the number of the enemy they face in South Vietnam. Therefore, to add to and to support the Vice President's contention that our stated policy is to depart, we are not going to leave a vacuum there even after full withdrawal of American troops. So I suggest that we let the Vice President answer the question of the Senator from Kansas, because he eloquently answered the question on "Face the Nation."

Mr. HUGHES. I thank the Senator from Oregon.

I shall be glad to yield a little time to the Senator from Kansas to respond.

Mr. DOLE. Of course, that does not answer the question. That is an agreement with the Vice President which I welcome, but the Vice President never said we should set a date and tell the enemy in advance that on that date we are going to vacate South Vietnam. It makes no difference how we slice it, what the sponsors of the amendment have done is to embrace and endorse the Vietnamization program——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. Mr. President, I yield the Senator 5 minutes.

Mr. DOLE. But then in a kind of "one-upmanship" they fix the date, saying, "Well, the President says that we are going to have a 280,000 troop level by next April, but we want to fix the date and deny the President further flexibility."

It is incumbent upon the sponsors of the amendment to explain to the Senate today, or tomorrow morning, how the proposal differs from the Vietnamization program, except that it fixes the date, except that it notifies the enemy in advance of the time of that withdrawal, except that it prevents the President, whoever he may be, from negotiating for peace or the terms of withdrawal—and that right is reserved to the President in the Constitution. The Senator from Kansas is not the Commander in Chief, nor is the Senator from Iowa, nor is the Senator from Oregon, nor is the Senator from South Dakota. It is a serious question we must resolve, which I want to emphasize, before we vote on the amendment tomorrow.

Mr. HUGHES. Mr. President, the amendment to end the war provides for safe and systematic withdrawal of U.S. forces.

It provides for negotiation for the release of our prisoners of war in enemy hands.

It provides for asylum for any Vietnamese who might be endangered by our withdrawal.

It opens up the possibility of constructive peace negotiations by setting forth a definite schedule of withdrawal. But this schedule is flexible and does not tie the President's hands.

It is the way to terminate this conflict—not with dishonor, but with prudence and with pride in doing the right thing.

As Prof. A. Doak Barnett of Columbia University recently said:

> If we move in the direction of a definite total withdrawal on the basis of a timetable . . . it will stimulate the Asian countries to face up to a greater extent to their own problems, to grope for broader international relations, to try to see what degree of reasonable cooperation is necessary and possible.

In other words, it will foster the President's own avowed doctrine.

Combat soldiers from my own State have sent me from Vietnam some of the wisest commentaries on the war I have heard.

One GI wrote:

> We are still trying to win a military victory in a situation where there can only be a political settlement. Will we never learn?

Another wrote:

Don't worry about the young people of our country. If our national security is threatened, they can be counted on. But in this war, our national security is not being jeopardized. We are interfering in the internal affairs of distant peoples whose customs and national aspirations we don't understand. The Vietnamese look at us with hate and distrust. All they want is to till their land. They want us to get out.

Said one seriously wounded soldier:

I haven't seen anything over here that is worth the life of one GI.

And finally, an older GI who had been a schoolteacher wrote:

I realize our fathers turned out in 1941, almost without protest. But then they had some idea of what they were fighting for. . . . I have no complaints about my treatment here. But I would not want any of my friends, my relatives, or my sons—if I ever had any—to get involved in this nightmare.

Mr. President, the time has come to end American involvement in the Indochina war.

The time has come for a realization that the byproducts of that war are not confined to the South Vietnamese or the Cambodians or the Thais, but are internally affecting this country to the point where this Nation is divided as it has never been since the Civil War. This war has torn the this country asunder. It has resulted in some of the worst violence we have seen, to the point where people are losing hope.

I think it behooves us to realize that the mightiest Nation on earth, the Nation that has the greatest scientific and technological capabilities, the greatest educational system, and the greatest food- and fiber-producing capabilities ever seen in the history of mankind, certainly has the wit and reason, at this point, to realize the great internal damage to this country caused by this tragic war. We see a drug epidemic in our land. We hear people continually wondering aloud what the purpose of this Nation is.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUGHES. One-half minute.

Mr. HATFIELD. I yield the Senator from Iowa 1 additional minute.

Mr. HUGHES. Mr. President, I think this is the greatest soul-searching time for America in the last hundred years—a time to really try to understand what we are doing in Southeast Asia in the name of the United States of America—this great and free democracy.

It is time we realize that we have a responsibility to be a standard bearer in demanding an end to the destruction of lives and the environment of South Vietnam. We should also realize what this great country, greater than any other ever conceived by man, is doing to South Vietnam, in the name of defending the freedom and the rights of that country.

As we come to understand these things, surely we can reconcile ourselves to accept the fact that the final outcome of the war in South Vietnam will be a diplomatic and a negotiated decision, not a decision won by the military forces of this Nation. And we, in our hearts, must reconcile ourselves to lending the support we believe is absolutely essential to making this decision, which we all would like, in future years, to be able to look back upon as being one of the most courageous moments in the history of our country.

Mr. HATFIELD. Mr. President, I yield myself 1 minute.

I wish to say, as one who has been associated with the Senator from Iowa for many years, as a fellow Governor and now as a fellow Senator, that I have known him to be not only a man devoted to the political duties of his office, but one moved by his duty to his fellow man. I believe his speech has added not only political and diplomatic data to this debate, but that he has infused it with the warmth of compassion and humanity, demonstrating his devotion as a person concerned with the welfare of other people.

At this time, Mr. President, I am honored to yield 15 minutes to my very good friend and able colleague from New Jersey (Mr. CASE).

Mr. CASE. Mr. President, in my lifetime I have not known a public issue more perplexing or a problem more agonizing than that of American policy in Vietnam.

Other problems have had—and still have—more apocalyptic connotations, for example, the unleashing of atomic and nuclear energy, or those that we are just now beginning to recognize relating to mankind's destruction of the environment on which his and all other life depends.

But, however awful these latter matters, our role in regard to them has somehow been, and I think will continue to be, vastly less difficult than those we have faced, and still face, in regard to American policy in Southeast Asia. The answers, though drastic and of immeasurable consequence, somehow have been and are easier to come by.

A few people—perhaps they have been the lucky ones—have found or professed to find no difficulty in deciding what we should have done in Southeast Asia. But for most of us—certainly for me—this has not been true.

Despite nagging doubts, I felt that, on balance, for a time what we were trying to do made sense, that is establish an essential measure of stability in that great area of the world in which chaos threatened as a result of the destruction and upheaval resulting from World War II. I have never agreed, and still do not, with those who feel that our actions made no sense at any time and that the lives lost and treasure spent were frittered away in meaningless violence.

I do not mean to argue this now, but merely to sketch the background against which my thinking in regard to the war in South Vietnam has developed.

Some time ago I began to feel that, however good our intentions, however sound and even useful our actions may have been in the early and middle years of the conflict, the time had come for a fundamental reappraisal of American policy. It became more and more clear to me that the period of diminishing returns had set in and that a continuation of our policy as it had been carried out would lead only to an endless war with endless American casualties, and endless drain on our treasury, and endless destruction in Vietnam itself.

It had become clear that while we could not be defeated in battle, neither could we win a military victory without unacceptable risks of great power involvement and a third world war.

It had become clear, too, that unless the South Vietnamese regime took drastic and far-reaching steps to reform its policies, to broaden its base of support and to prepare itself for its own defense, it would never be able to survive upon our withdrawal—whether that occurred in 60 days or 6,000 years. It seemed clear, finally, that, since we were doing substantially all the serious fighting and were supporting their economy with billions of American dollars, they would never change their ways unless we forced them to by insisting that our support would continue only for such period as would give them a reasonable chance to shape up.

And, so, I became an advocate of the proposition that we should fix a definite date for our complete withdrawal, announce this decision publicly and stick to it.

Since I did not, and do not, want to see chaos result in South Vietnam after we leave, I have always felt, and I still feel that this date must present a reasonable period in which the South Vietnamese may put their own house in order. The only problem, then—and a most difficult one—is to determine what that date should be.

No one could be absolutely sure about this. But the best advice I could get was that given by Dr. Edwin Reischauer, one-time U.S. Ambassador to Japan and a lifetime student of the Orient. He suggested about a year ago that the end of 1971 would be reasonable. I have not seen anything which causes me to think his suggestion is very far from the mark.

And, so, I have been happy that the so-called Hatfield-McGovern amendment has been modified by its chief sponsors to provide, in effect, for American withdrawal from South Vietnam by the end of 1971.

I know that there are stated limitations on U.S. military activities in and over South Vietnam between April 30 and December 31, 1971, but the range of activities permitted during that period leaves with the President his full authority as Commander in Chief to provide for the defense of American forces in that period, and of this I fully approve.

The argument has been made that to fix a definite date for our withdrawal means only an enemy victory. It is claimed that North Vietnam will just sit and wait for the time to pass and then, when we are out, come in for the kill; that she will never negotiate because she has no need to.

The answer to this is, and I think always has been, that North Vietnam will never negotiate unless she feels that American withdrawal, whenever it occurs will leave South Vietnam able to defend itself. And the course I suggest, and that implicit in the pending amendment, is the only course offering a reasonable chance that the South Viet-

namese will make themselves capable of their own defense and of continued existence as an independent state.

And, so, by fixing a date for our withdrawal and sticking to it so long as that date is reasonable, we will be taking the only course which might lead to successful negotiations. The North Vietnamese will negotiate when they feel that they can get a better deal now than they might if they waited and had to face a South Vietnamese nation strong and determined to defend itself.

I applaud the President's decision to turn from escalation to deescalation of America's participation in the war and I approve of the actions he has taken over the past year to implement that decision.

My difference with the President on this matter is precisely this: He has made our continued withdrawals dependent upon South Vietnam's progress in building its own defensive strength. This, it has always seemed to me, leaves the initiative where it should not be—with Saigon, and not with the United States. South Vietnam can defeat our purpose by failing to take the steps necessary, and many of them will be hard steps, to assure she becomes capable of her own defense and continued existence as a nation.

The pending amendment would return the initiative in this matter to the United States, and this is where it must remain.

Is December 31, 1971, the right date? At this moment no one can be absolutely sure.

But one can say this. If the period is too long, the President can shorten the process of withdrawal to whatever extent he finds possible.

But what if the period is too short? The answer is equally clear. All the President need do is come to Congress and, with any kind of supportable case for an extension of time, he would surely get it. Why do I say this? I say it because if the President makes it clear to the country that a longer time is needed, the Congress will surely grant it. And if the case cannot be justified before the people of America, then it will not warrant further loss of American life and further expenditure of our material resources. I am confident that the people can be trusted to make the right decision in this matter and I am confident that the Congress can be counted on to reflect the people's will.

This is the way in which the great decisions of war and peace must be made in democratic America.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CASE. I am happy to yield.

Mr. DOLE. The basic point is illustrated by the very able Senator from New Jersey. It is, When will we withdraw from South Vietnam? I am wondering how the Senator from New Jersey interprets the present version of the Hatfield-McGovern amendment, which is No. 5 or No. 6—from the President's Vietnamization program.

What is the difference between the President's program and the so-called end-the-war amendment? Even under the end-the-war amendment, the war can continue for 18 additional months. It may be that the President would end it before that time.

Why, at a time, as the Senator from New Jersey has pointed out, when the President has changed the course of the war, should we attempt now to say to this President, who will remove over 80 percent of the combat troops out of South Vietnam by next May, "The course you follow is incorrect; it is correct only if the Senate or Congress can fix an absolute date"? To me, this is Vietnamization with a fixed date. I do not know what else it can be called.

Mr. CASE. I am glad that the Senator from Kansas took my interposition seriously enough to engage in this colloquy, because I have tried to come to the nub of this matter in my remarks.

As I said in my remarks, I approve thoroughly of what the President has done in changing the course of the war. President Johnson's policy was to raise the ante. President Nixon recognized the fallacy of this, the great wrong in it, and changed the course of the war; and I think history will show that it was probably his greatest contribution as President of the United States. I applaud thi..

Where I differ with him, as I point out—and precisely the point of my difference with him—is that he has said that the continuation of the withdrawal of our troops must depend upon a corresponding increase in the South Vietnamese ability to defend themselves. This places the initiative on the South Vietnamese. It gives it to them instead of to us.

So long as, for example, under President Johnson we were doing the bulk of the fighting, the great bulk of the fighting, and were putting billions of dollars into their economy just to keep them alive—and literally hundreds of South Vietnamese were getting rich in the process, while our men were dying—they never would make any effort to change the situation. I must say that this problem was compounded by the failure of our military to the South Vietnamese at that time. I thoroughly agree with Secretary Laird's appraisal when he came back after his first trip abroad, after his appointment, and said that he was appalled at the condition of the so-called military forces in South Vietnam.

Much has been done in the right direction, but much has not been done. The time we are looking forward to now is that when the completion of the withdrawal of 150,000 troops, which the President has scheduled, has taken place and the condition that we will face at that time.

It is my sincere judgment that if we say we are going so long as they improve—but do not fix a definite, final date—they will never make the final hard decisions which will make them capable of defending themselves, whether it is now or in 6,000 years. That is why I think the fixing of a definite date is important.

Perhaps the amendment's date is too far in the future. Perhaps the President can get us out safely and without leaving chaos in our wake before that time. If so, nothing in the amendment prevents that. So the flexibility of shortening the process still exists. If, on the other hand, the time period is too short, then the President can come to Congress and to the country and get an extension for whatever time is reasonable. But within the context that we are not going to continue there indefinitely, as many pronouncements from South Vietnam suggest we may have to, unless the South Vietnamese change their thinking—and I do not think they have changed it—we may have to be there indefinitely, with the kind of support that will keep us involved and that will prevent them from taking the final steps necessary to develop an independent nation.

It may be that inevitably there will be a contest in Southeast Asia after we leave. We cannot prevent that. I think it is very possible that there will be some sort of internal wars going on.

What I am concerned about is that nothing that we have done, or do, should lead to making those wars more difficult, more horrible than they otherwise would have been.

We have taken on a responsibility. I am not one of those who say that we can just pull out. We did take on a responsibility for the lives of millions of people in that part of the world, and many thousands of American men have lost their lives in carrying out this country's mission, and I honor them for that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CASE. Will the Senator yield me 2 additional minutes?

Mr. HATFIELD. I yield 2 additional minutes to the Senator from New Jersey.

Mr. CASE. I say that what they have done has not been useless or in vain. But I do say that the time has come for a turn, that Congress has a role here, and that I think this amendment, in its present form provides us an opportunity to exercise that role in a wholly responsible way.

Mr. DOLE. Mr. President, will the Senator yield briefly?

Mr. CASE. I yield.

Mr. DOLE. Let me say at the outset that there is a very narrow difference of opinion with reference to my views and those of the distinguished Senator from New Jersey. I, too, believe that years ago there should have been more effort made to train the ARVN forces so that they might take over the battle. It is unfortunate that only in the last days under Secretary of Defense Clifford and President Johnson and now under President Nixon and Secretary Laird, this program has been accelerated. But I cannot believe that we strengthen our position by announcing in advance a withdrawal date.

Every Member of this body is committed to peace. Every Member of this body wants the war to end as quickly as possible. Certainly, the President holds that view. The Secretary of Defense and the Secretary of State have indicated that by June 1971, all combat forces will be out.

Thus, it appears to me that we are on the right course without any definite date being fixed.

I listened to the Senator's remarks with reference to the negotiations but

feel that we undercut whatever effectiveness David Bruce might have by telling the enemy in advance that we will get out in advance regardless, no later than March 1, 1972. Otherwise, we are in basic agreement.

Mr. CASE. I thank the Senator very much for, at least, trying to make my thoughts even more clear than I may have been able to do in my prepared remarks. The question is a narrow one. But it is a significant one.

The only further thing I should like to say, is that we need to do more than just bring them up to the mark militarily. We also must make the Vietnamese Government want to make itself into a strong representative government with broad enough based policies so that it will have a reasonable opportunity to attract the support of its people.

Mr. HATFIELD. Mr. President, I am very grateful to the Senator from New Jersey for his fine presentation this morning on this amendment. He serves with great distinction on the Committee on Foreign Relations and brings to bear on the subject that background, experience, and perception.

I am also grateful to the Senator from Kansas (Mr. DOLE) for his assist in bringing out some of the points we are making as part of our presentation. This is part of the responsibility of the Senate to focus and sharpen the points of differences which exist. If the Senator from Kansas wishes additional time, we certainly will be happy to yield it to him, to permit this colloquy to continue on any occasion.

Mr. President, at this time I yield 15 minutes to one of the cosponsors of the amendment to end the war, a man whom I have known for some time and has a great background and understanding of the great issues of the debate now engaged in, the very distinguished Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER (Mr. YOUNG of Ohio). The Senator from California is recognized for 15 minutes.

Mr. McGOVERN. Mr. President, will the Senator from Oregon yield me 1 minute?

Mr. HATFIELD. I am delighted to yield 1 minute to the distinguished sponsor of the amendment.

Mr. McGOVERN. I wish to take this time to commend the Senator from New Jersey (Mr. CASE) for the statement he has made here today. For many years he has been one of the most thoughtful Members of the Senate in his consideration of the issues which face us in Southeast Asia. His support for this amendment and also the contribution he made in helping to draft the language which would be more acceptable to Members of the Senate is most important. I wanted to express my deep appreciation to the Senator for what he has done. I thank the Senator from Oregon for yielding me this time.

Mr. CRANSTON. Forty hours ago, yet another American died a violent death in America attributable both, I think, directly and indirectly, to the violence in Vietnam. That man was Ruben Salazar, a man of vast accomplishment, a man of even vaster promise. His loss is an utterly tragic one—I think immeasurable. I am deeply shocked and saddened by the news of the tragic death of Ruben Salazar. He was a peaceful and compassionate man who dedicated his life to the eradiction of poverty, injustice, prejudice, and ignorance. It was the occasion of a gathering called the Chicago moratorium against the Vietnamese war that he was covering as a newsman that led to the circumstances that caused his death. The Chicago moratorium was led by a man who did all he could to assure that it would be a peaceful demonstration against the violence in Vietnam. Its leaders were motivated primarily by the fact that an unfairly high proportion of those who bear the burden of combat in Vietnam and who have died or have been wounded are Americans of Mexican extraction. Somewhere on the periphery of the gathering some violence commenced and in the course of that violence Ruben Salazar was killed, although of course he was not engaging in the violence in any way.

Like many of us, Ruben Salazar was outraged by the senseless war both at home and in Southeast Asia. Violence has divided us, it has pitted us against each other, resulting in needless and tragic deaths.

The loss of Ruben Salazar is incalculable. His wife has lost a husband. His three children have lost their father. The entire community has been deprived of one of its most forceful and effective spokesmen. They have lost the wisdom, guidance, understanding of a compassionate man who never ceased to remind us of the problems which remain unfinished.

I do not cite the killing of Ruben Salazar as an argument to end the war. The killing of Ruben Salazar does symbolize for me and for so many who respected and loved him, what the Vietnamese war is doing to our beloved country.

Quite regardless of the differences among us on how to end this tragic war and our bloody involvement in it, I wanted to eulogize this great, fallen American in my first moments on the Senate floor after his tragic death. I thought there could be no more fitting context to refer to it than in this debate on the pending amendment.

Now, Mr. President, to turn specifically to the pending amendment before the Senate, let me first say that to one degree or another, each of us in this Chamber is disheartened by the prolonged war in Indochina.

Certainly, we are all anxious to end our involvement in the fighting there.

We disagree only on how best to bring this about.

I deeply hope that our debate on this amendment, however spirited it may be, does not increase the divisions in the Nation which have erupted in large measure because of the war in Vietnam.

It is the responsibility of the Congress, no less than that of the White House, to help pull this country back together again.

I believe President Nixon is sincere in wanting to end our military involvement in Vietnam.

He clearly is trying: The troop withdrawals he has made in the past, and the withdrawals he has announced for the immediate future, prove that.

This amendment impugns neither the President's motives nor his integrity.

Supporters of this amendment fear, however, that the policy of Vietnamization just will not work.

The President, of course, will stick to his word and reduce our forces to 280,000 men by next spring.

But what will happen then?

Will Vietnamization permit us to withdraw those remaining men safely and soon?

I gravely doubt that it can.

Vietnamization strikes me as little more than a new name for an old, unworkable policy followed by the Johnson administration.

It is based on the false assumption that the United States and the Saigon government can, by the continued application of military force, wrest from North Vietnam the political concessions which, in the President's words, will enable us to "Win the Peace."

While we have insisted through the years that we will bargain only from "a position of strength," we mistakenly continue to assume that the other side will be willing to negotiate from a position of weakness.

And our policy has been to pound them into this state of weakness.

But we were unable to succeed in doing this when we had 520,000 troops in the field and our planes were bombing North Vietnam around the clock.

If we could not succeed in wringing concessions from them then, how can we reasonably hope to do so now that we are withdrawing our ground combat troops and having them replaced by South Vietnamese?

If the best trained, best led, best equipped fighting men in the world—the American Army, Navy, and Air Force—could not "win the peace" in Vietnam, how can we expect poorly led, poorly trained, and poorly motivated South Vietnamese troops to perform this miracle?

The consequences of Vietnamization are beginning to be apparent.

By trying to win the war, we have succeeded only in expanding the war.

Our planes are engaged in combat missions over Cambodia.

Our enemies are at the gates of Phnom Penh, and they are showing ominous signs of increased activity in Laos.

Vietnamization is turning all of Indochina into a single battlefield.

Meanwhile back in Vietnam, the Saigon government continues to conduct its bad business as usual.

Anti-Communist political opponents of the regime are still being locked up.

Corruption and graft rage throughout all levels of society.

And 30 percent of South Vietnamese combat troops continue to desert every year.

There is a distressing parallel between the Saigon regime and the Chinese army of Chiang Kai-shek in the waning days of World War II.

In South Vietnam today, as in China in 1944, thousands of phantom soldiers—men who have deserted or who have died in battle—continue to pad the army rolls.

Their commanders carry their names

on active duty rosters, then pocket their salaries and sell their supplies.

The military arm of the Saigon regime is rotten from top to bottom.

We are repeating in Vietnam the same mistakes we made in China in 1944 by unwisely backing a corrupt military corps.

Worse yet, the economic and social fabric of South Vietnam has been torn apart over the past few years.

Millions of peaceful peasants have been turned into homeless refugees.

Inflation is rampant.

The cities have been turned into steaming cesspools of urban rot.

A rural, agriculture-based people have been transformed into a culturally disoriented people largely dependent on massive inflows of American aid and military might to keep from slipping into anarchy and starvation.

Sad to say, our efforts, no matter how well-intentioned, have turned a closely knit nation of small farmers into a rootless mass of camp followers.

Vietnamization, with its hope of winning political concessions through military means, is a fragile reed rooted in political quicksand.

Vietnamization is built upon a Saigon government that is a repressive, military dictatorship, ruling a corrupt and undependable army and a society of badly abused and thoroughly confused and dependent people.

Vietnamization, it seems to me, is a prescription for disaster—both for us and for the Vietnamese people we are supposed to be defending.

For America, the potential disaster in Vietnamization lies in the matter of the safety of our troops.

The President has made much of his concern for the safety of our men, and surely all Americans consider that our major, overriding concern.

Yet Vietnamization hides within it a possibly fatal flaw in this very respect.

As American ground combat forces are withdrawn, the men left behind will become more vulnerable to enemy attack.

Fewer in number, they will possess less firepower and less mobility.

But what is worse, they increasingly will have to depend on South Vietnamese forces for their protection.

The safety of our young men thus will be resting primarily on an army with a high desertion rate, with no real commitment to their cause, with little feeling of allegiance to their generals in Saigon, and even less feeling of allegiance to us.

There have been increasing reports of anti-American incidents in Vietnam.

American troops have been surrounded, hooted, and jeered at by South Vietnamese civilians in cities firmly under control of the Saigon government.

Half of the American deaths in Vietnam have resulted not from engagements with front line Vietcong or North Vietnamese troops, but from mines, booby traps, and sniper fire from second and third level Vietcong cadres, and their peasant sympathizers in the countryside who hate the Communists of the North, who hate the dictators of the South, and who hate the foreign intruders—first the Japanese, then the French, and now us.

Time after time, Vietnamese villagers have sat quietly by watching our boys walk into minefields and booby traps which they knew were there, and in many cases had planted themselves.

We have never announced our intention to withdraw all our forces from Vietnam.

This Nation has never officially declared that it does, indeed, ever intend to withdraw entirely from Vietnam.

Our enemies feel they cannot trust us.

And their uncertainty over our real aims and ultimate intentions about withdrawal can only heighten this distrust.

As we reduce our forces, we become a tempting target for attack.

The Vietcong and the North Vietnamese could hit our remaining troops very hard.

And who will be there to protect them?

We cannot be sure who the South Vietnamese will shoot at when they see us leaving for home and the major burden of the fighting falls on their shoulders.

We cannot even be sure they will stay around long enough to shoot at all.

Yet it is this very undependable ally on whom the very success of Vietnamization depends.

And it is this very unreliable ally on whom we will be relying to protect our men.

Mr. President, we have already asked much of the men we have sent into combat in Vietnam.

But this, I submit, is asking too much.

What would we do if the enemy were to achieve a breakthrough and imminently endanger our men?

We would not be able to rush reinforcements back in fast enough to stop them.

We would have to choose: Either a massive, amphibious retreat by sea, or a massive retaliatory strike, involving perhaps the use of tactical nuclear weapons.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. Mr. President, I yield an additional 6 minutes to the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. This, then is our probable future under Vietnamization: A choice between a bloody Asian version of Dunkirk and a bigger, bloodier reescalated war culminating in a nuclear strike.

The present policy of slow, erratic withdrawals of some American troops, while at the same time leaving the enemy uncertain as to when, if ever, we will withdraw all of them, is an unwise, militarily dangerous course.

And we compound the military risk by depending on the South Vietnamese to "protect our rear."

I fear that we are setting up a situation in which the introduction of nuclear weapons may become inescapable.

If that were to happen, I am convinced that the Vietcong and the North Vietnamese would turn to Red China for intervention and we would then face the prospect of the huge Asian land war, and possible nuclear holocaust, we have luckily avoided till now.

Experienced professional military officers, including West Point graduates who have served in Vietnam, have outlined this very scenario for me.

This is no nightmare dreamed up by a civilian; it is a very real military probability which many of our military men foresee and dread.

I believe this amendment offers the only safe way to end our military involvement in Indochina and improve the prospects for peace in the area.

As former Defense Secretary Clark Clifford has put it:

> Let's set a timetable, stick to it, and get out.

This amendment sets a date for the withdrawal of all our troops.

It keeps the safety of our men in our hands, rather than putting it in the hands of the South Vietnamese.

It assures the Vietcong and the North Vietnamese that we are committed to withdrawal by a specific, publicly announced date, thus eliminating their uncertainty and reducing the incentives for an attack against our remaining men.

Thus the amendment would enable us to effect our withdrawal in a safe, orderly, and systematic manner.

As Arthur L. Karp and Comdr. G. E. Everly, U.S. Navy retired, pointed out in their article on "The Safety of American Troops While Withdrawing from South Vietnam":

> If withdrawal is viewed in purely military terms, a systematic, planned military withdrawal is the safest way to disengage.
>
> Any other method, however attractive on the basis of political considerations, will impose greater military risks and a number of casualties that would depend on South Vietnamese performance.
>
> Once fully committed to other than a systematic military withdrawal, the U.S. will gradually lose control of the situation.
>
> A failure on the part of the South Vietnamese forces could confront the U.S. with the choice between very high casualties or re-entry into the country with a rescue force.
>
> A straightforward military withdrawal runs no such risks.

Equally important as its effects on our enemies, a set timetable would have a salutary effect on our so-called friends.

The amendment would serve notice on the Thieu-Ky regime that its days are numbered unless it broadens its political base and pushes ahead with land reform and democratic changes.

I am not talking about forcing a coalition government.

I am talking about bringing into the government non-Communist moderates and nationalists who are kept out of power, when they are not thrown into jail.

Just as the South Vietnamese military have no incentive for taking over the fighting as long as we remain, so the South Vietnamese politicians have no incentive for democratizing the government and bringing in opposing views.

As long as our tanks and planes are there, they feel safely ensconced in office.

There is real hope for persuading the enemy to negotiate a peace in the alternative offered by this amendment.

A strong, viable democratic government in Saigon, which is not alined with the "hated foreigner" and is making real strides in land reform, would have a wide

popular appeal and would erode Communist support.

This then would be a government which the North Vietnamese would have to negotiate with seriously.

For these reasons I strongly support this amendment. The Senate, as well as the President, has a responsibility to make its position clear and to share equally its constitutional duty in helping to bring this unhappy war to an end.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CRANSTON. I am delighted to yield to the Senator from Kansas.

Mr. DOLE. On the issue, which I discussed last week with the Senator from Oregon on who should determine the time of withdrawal, it occurs to me that withdrawal is certainly the desire of the President, everyone in this body, and the other body. The issue resolves itself as to who should have the final determination. Should it be the 535 Members of Congress or the President of the United States?

As the Senator knows, the President is the Commander in Chief, whoever he might be. Congress has the right to declare war. In the early days, when they were discussing the Constitution, at one time they said that Congress should have the right to make war, and after some discussion they limited it to the right to declare war. It goes without saying that the President has the right to negotiate treaties ratified by the Senate.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mr. McGOVERN. Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator may proceed.

Mr. DOLE. So my basic question is, particularly in view of the President's successes in deescalating the war and reducing the troop level by 120,000 and it will be another 150,000 by next May 1—and all of our combat troops may be out by June 1, 1971—why should we now impose our restrictions, of the Senate and the Congress, on a President who is having some success?

Second, how does the so-called end the war amendment—which I designate "lose the peace" amendment—differ from the Vietnamization program, with one exception—that there is a final terminal date? How does it differ from the Vietnamization program? Under the amendment we would be at war for 18 months more and there would be more casualties and more men killed. I ask the Senator if there is not a very narrow distinction?

Mr. CRANSTON. First, Mr. President, I suggest the Senator from Kansas take another look at the Constitution. Rather incredibly he has overlooked a fundamental clause in that Constitution which provides that Congress shall provide funds for the Armed Forces. This is the one clause where a time limit was placed because of the urgent nature of this particular power. It was limited to 2-year appropriations at the most so that every 2 years Congress shall be required, if it is lax in the exercise of its responsibility, to review whether or not Armed Forces should continue in their present use and strength under the command of the President. That is a vitally important responsibility that this amendment would seek to remind Congress to once again establish. We are seeking through this amendment to share responsibility with the President. We are not dictating to him.

The revised amendment carefully provides also for the President to extend the date and he could have a further extension if he feels the safety of our troops—which is uppermost in our minds and the mind of the President—is jeopardized. That would be the key factor in determining what would be the wisest course in Vietnam.

Turning to the Senator's other question, I should say that this amendment does seek to set a time limit for our engagement in South Vietnam. It is our belief that it will reduce the bloodshed, that it will reduce the casualties, and that it will lead hopefully to an end of the war, so far as our participation, and perhaps to the war itself, well in advance of the fixed date set in the amendment.

It is our belief there are many, many reasons why the other side will be far more likely to negotiate an end to the conflict and our involvement in that conflict once the date has been set than under the present open-ended situation which, as I outlined in my brief, opens the door to more bloodshed of Americans than the alternative we are offering.

Mr. DOLE. The Senator agrees that under the amendment we would continue the war for 18 months. The President could come before Congress and continue it some time after that. If a situation arose where the President could not or did not withdraw within the 18 months, I assume Congress would go along with the situation.

The Senator did not state how he views this amendment to be different from the Vietnamization program that has been successful.

Mr. CRANSTON. We give notice to the South Vietnamese that we are not there forever; that the time has come for them to stand up on their own feet. As long as we do not serve notice to them that we are on our way out totally on a timetable why should they share the burden when we are prepared to do so much of the bleeding and dying for a government that we have propped up? Why should they make reforms like to solidify South Vietnam and the people of South Vietnam and raise them as a nation capable of standing on their feet with the capability of defending the sovereignty of the south against those who would overthrow that government by violence?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. Mr. President, will the Senator from Mississippi yield to me for 5 minutes?

Mr. STENNIS. I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I would like to continue the discussion if it is satisfactory to the Senator from California.

Not only do we serve notice on South Vietnam, which seems to be of great concern to the Senator from California, but we serve notice on the North Vietnamese and the Vietcong, who are the enemy in Southeast Asia. We tell them in advance that in the event this amendment is agreed to without change, that by March 1, 1972, we are going to vacate South Vietnam or Indochina. It goes beyond that. It seems to me what we are saying, in effect, to David Bruce, who hopefully will have some success in Paris, is that there is no need to negotiate. Why should the enemy negotiate or why should any one negotiate if they know that in 6 months, or 18 months they are going to achieve their objective and that we are going to walk off and leave 17 million Vietnamese, with whom we are rightfully or wrongfully engaged in a war? Why not move the time up until today, or make it 30 days or 60 days from now or as quickly as we can withdraw?

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. CRANSTON. It is, of course, recognized that adoption of this amendment would serve notice to the North as well as to the South of our intention to withdraw on a certain timetable. It is our belief that this is far more likely than any present circumstance to lead to negotiations with the North, where they would be more willing to negotiate more rapid withdrawal of our troops under safe conditions so that none of them would be assaulted by the other side. In the absence of this, there is great danger that the enemy will decide to assault us when we are down to a reduced strength and we are depending more on the South Vietnamese for protection. when we would not be in a position to protect our own men to the same degree as when we had larger forces there.

When the South also begins to broaden its base, which will lead to strengthening itself, I believe then, at long last, the situation would develop where it would be to their interest to negotiate with the North, and they could get on with agreements over the border, which has for so long been the cause of the provocation which has led the Vietcong and the North to carry their war on with the South Vietnamese Government.

I would like to ask the Senator if he sees any sign, any hint, any token, that the present situation would lead to successful negotiations and to a cessation of conditions which existed first under the Chinese, then under the French, and now under us, where, decade after decade. they have been unwilling to negotiate. I see no sign of their willingness to negotiate in any serious way and have a conclusion of the violence.

Mr. DOLE. There is some sign, as the enemy's chief negotiator has returned to Paris. The criticism had been that we needed a top negotiator. The Nixon administration appointed David Bruce, an outstanding American of great ability and great competence. So there is that hope, just as there is in the Mideast, for some negotiated peace.

I happen to believe that the Vietcong and the North Vietnamese are at a very low ebb right now. I happen to believe that they are looking for a solution, not a military victory but a negotiated way to end the war, which would be satisfactory. It just appears that we say to

the enemy, "Stick around. Stay around. We are going to leave here by a time certain."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. May I have 5 additional minutes?

Mr. STENNIS. Mr. President, the Senator from West Virginia (Mr. BYRD) has come in on an emergency matter. I yield to him now. Has the Senator finished his colloquy?

Mr. DOLE. May I have just 2 minutes?

Mr. STENNIS. I yield 2 minutes gladly to the Senator from Kansas.

Mr. DOLE. What we have seen is a complete metamorphosis. The original advocate of end the war was the junior Senator from New York (Mr. GOODELL). He suggested a withdrawal by December 1, 1970. Then we had a resolution by the junior Senator from South Dakota and other Senators that suggested December 31, 1970. Then we had another resolution suggesting April 30, 1971. Then another resolution suggested December 31, 1971. Then another resolution suggested that if we are not out by December 31, 1971, we will give the President 2 additional months. Each additional change apparently meant more votes in the Senate for the so-called end the war amendment.

I am not certain how many votes the Senators believed they could attract by this proposal. I am not sure whether the Senator from South Dakota considered the fate of the South Vietnamese or the fate of Americans or primarily how many votes would be obtained in the Senate. So each time there was a new retreat. Each time there was a further step backward in an attempt to attract votes. Now we have reached the final version, the fifth or sixth version, of the so-called end the war amendment.

What is the amendment before the Senate? I am not certain which amendment it is that is before us——

The PRESIDING OFFICER. The time of the Senator has again expired.

Mr. CRANSTON. Mr. President, may I have 30 seconds?

Mr. STENNIS. I yield.

Mr. CRANSTON. I am sure the Senator from Kansas knows we are presently debating the amended version of the amendment to end the war. That is the pending business in the Senate.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I want—as much as anyone else—to see American fighting men brought home from Vietnam.

But wishful thinking will not get us out of Vietnam, and we must face up to reality—whether we like it or not.

The so-called end the war amendment sounds good. We all want to see an end to the war. But I shall vote against the amendment. Why?

In the first place, it publicly states a deadline—December 31, 1971—for withdrawal of American troops from Vietnam. I would like to see American troops out of Vietnam—even before December 31, 1971—and I am for having, as a part of our own plans, a tentative timetable toward which we should aim.

But to enact legislation publicly announcing an arbitrary date for withdrawal would indubitably undermine our position at the peace table.

If Hanoi knows we will be out of Vietnam by a certain guaranteed date, why should she make any concessions? The enemy need only to sit tight until the announced deadline, and then take over.

Second, the amendment could, in effect, hamper the President in the protection of American forces in Vietnam, in that the amendment would substitute the judgment of 535 Members of Congress for that of the President, as Commander in Chief, as to what constitutes a "clear and present danger" to our troops for any period exceeding 60 days beyond December 31, 1971.

Moreover, the amendment could have an effect opposite to that which is intended on its face. Instead of ending the war, it could, in reality, create a situation which would endanger our remaining forces, and thus prolong our engagement.

Finally, the President is committed to a policy of gradual withdrawal, and he has already reduced our forces there significantly. Additionally, he has indicated that, by April 30 of next year, he will have the troop level down to a figure as low as or even below what the amendment would require.

With all due respect, Mr. President, to the sponsors of the amendment, and recognizing their good intentions, I must, nevertheless, oppose the amendment. I think, if enacted, it would be unworkable; it would prove to be a serious hindrance to negotiations at the peace talks; it would tie the hands of the President in his efforts to bring about an orderly and gradual withdrawal without rewarding Communist aggression, and it might impede rather than hasten that withdrawal; and it could result in jeopardy to our own troops in Vietnam.

In view of these and other objections to the amendment, I, therefore, shall vote against it when my name is called on tomorrow.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. McGOVERN. The Senator from West Virginia is a student of the Constitution and of the responsibilities of both the Congress and the President in issues of war and peace. I wonder if he is fully aware, in view of the anxiety he has just expressed about restricting the powers of the President, that there is nothing in this amendment that would prevent the President from exercising full tactical command power over American forces up until the time of their withdrawal?

The amendment does set an announced withdrawal date at the end of next year, with the proviso that the President, in an emergency situation, could extend that on his own authority, and that if he wanted another extension, he would have to come back to Congress.

Does not the Senator feel that is really the way that the Constitution intended that the powers of war be divided between the President and Congress, with Congress setting the limits, that is, fixing the time, defining the scope of American military operations abroad, and giving the President full tactical authority, as long as those troops are in battle, to order them as he sees fit?

I do not see where the amendment disrupts that constitutional balance at all.

Mr. BYRD of West Virginia. Mr. President, if I may respond to the Senator, I do think the war powers are to be shared between Congress and the President. But we are in a war in Vietnam. I do not think that Congress can or should set a timetable, because I think, as I have stated, that this would really undermine our negotiating position at the peace table.

What I really had reference to when I indicated that the amendment might put in jeopardy our troops, and where I think we may be going too far in that particular respect, lies in the provision that the President would have to come back to Congress after 60 days beyond the December 31, 1971, deadline.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD of West Virginia. Will the Senator from Mississippi yield me 1 more minute?

Mr. STENNIS. I am glad to yield it to the Senator.

Mr. BYRD of West Virginia. To do this would substitute, in my opinion, the 535 Members of Congress for the one position of Commander in Chief under the Constitution, with respect to a decision which I think should be the decision of the Commander in Chief in that particular emergency.

Mr. McGOVERN. I can only say to the Senator that I find that an interesting doctrine, that he would read the Constitution in that way, that the judgment of one man is so much to be preferred to the judgment of 535 that simply saying that ought to resolve the issue.

That is not my interpretation of the Constitution, if I may say so respectfully to the Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield the Senator from West Virginia 2 more minutes.

Mr. McGOVERN. I would read it that we, as the 535 Members of Congress, do have that responsibility, to make that judgment as to whether the presence of American forces should be continued on any particular military front. If the decision is made that they should be, then, of course, it is up to the President to command those forces for as long as Congress permits them to stay in battle. But I do respectfully urge the Senator to look at that constitutional aspect of the issue, because to me it is quite clear that we cannot give up that obligation, which is ours, to make these judgments about the commitment of American forces abroad, and that the President's power is limited only to commanding those forces in those areas of the world where Congress has sent them, and for whatever time we feel it is in our national interest to keep them there.

Mr. BYRD of West Virginia. Mr.

President, the Constitution, in article I, section 8, clauses 11, 12, 13, 14, 15, 16, and 18 sets forth the war powers of Congress. But it specifically states in article II, section 2, that the President shall be the Commander in Chief, and I think the Senator's amendment interposes the legislative branch into the constitutional responsibilities and powers of the President as they are derived from the Constitution; because I think the particular decision he is talking about now would be one for the President of the United States to make, depending upon what the circumstances are at the time.

The President is to determine the tactical decisions. It seems to me that for us to draw a line and say, "This far and no farther" in a situation in which our troops are already engaged, in a situation in which the President has already enunciated and is implementing a policy of orderly withdrawal and is committed to a policy of continued withdrawal, would be going too far. I think we would be tying the President's hands and contravening the President's powers under the Constitution. The authors of the Constitution decided there would be one Commander in Chief, the President of the United States. I think this amendment injects Congress into that area wherein the President has the clear authority under the Constitution to act.

Mr. McGOVERN. I have to disagree with the Senator. He makes his point, but I cannot see where there is any invasion of the Commander in Chief's function by Congress in its function of exercising judgment as to how long a particular military operation is in our national interest.

I think it is some measure of how far we have fallen into the view that the President should have a free hand in this area that the Senator is disturbed at the notion that Congress, even though it is 535 men—which, as far as I am concerned, increases its collective wisdom rather than decreases it—ought to have the responsibility and the authority to make a judgment on this matter.

Mr. BYRD of West Virginia. Mr. President, I think there is the added factor of practicality. I think it would be impracticable, in a situation which amounts to an emergency, for the President—I am talking about the situation which might come about 60 days beyond the expiration date of December 31, 1971—to have to come back to Congress and get the approval of Congress to act in a situation where the lives of American troops may be in jeopardy.

The Senator knows how long we debated the Cooper-Church amendment. He knows how long we have been on this bill. I would hesitate to think that Congress would pass a law that might tie the hands of the President in a dire situation 60 days beyond the scheduled termination date of December 31, 1971, when the lives of our troops might be at stake. So I think it is impracticable.

Not only do I think there are serious constitutional questions, but I think it is impracticable to legislate in this way, and it is certainly impractical to expect the President to carry out his duties as Commander in Chief under such a restriction.

Mr. McGOVERN. Mr. President, I can only say to the Senator, in response—

Mr. BYRD of West Virginia. May I say I respect the Senator; we just disagree.

Mr. McGOVERN. In reply to the Senator's last point, I would say that the Senator from New York (Mr. JAVITS) made the statement, in debate with Senator STENNIS, Senator TOWER, and myself on one of the television networks on Saturday, that perhaps an antifilibuster clause could be attached here, so that we could prevent that one possible emergency situation the Senator is talking about.

We do have written into this amendment language that would give the President the authority, during that 60-day grace period, to come to Congress and say, "Under these circumstances, I think additional time is necessary."

Then, if Congress concurred, the President would be free to assume his command function and direct the tactical operations of our forces.

It seems to me that is every precaution that is necessary, but if the Senator from West Virginia would want to suggest an antifilibuster clause in the amendment, perhaps we could consider that.

Mr. BYRD of West Virginia. Mr. President, I appreciate the Senator's suggestion with respect to an antifilibuster clause, and I recognize that such language could be written. I do not question that that could be done; there are precedents for that.

Mr. McGOVERN. Yes. For example, reorganization.

Mr. BYRD of West Virginia. In reorganization plans, and so on. But I think that overall, the amendment has too many other failings. Even if this obstacle were circumvented, I think the amendment has too many failings. I have stated my position with respect to its shortcomings.

I respect the Senator for what he is trying to do and I applaud his objective; however, I must respectfully disagree with the approach he is taking in this instance.

Mr. McGOVERN. I thank the Senator for yielding.

Mr. STENNIS. Mr. President, I now yield myself 20 minutes, or so much thereof as I may use, in opposition to the amendment.

Mr. President, we have a good faith effort here by very fine Members of this body to bring into focus this issue. I have talked with the Senator from South Dakota about this many times, and I accept his thought that he thinks he is strengthening the hand of the President of the United States. I do not believe that that is the import of his amendment. I believe it is just the opposite. But I am sure he believes that, and that neither he nor the Senator from Oregon, would be sponsoring this thing unless they thought it was best.

Mr. President, I believe that this is the certain way, to set a definite time, on a certain date, we are going to get out, regardless—you will be through with us and rid of us, too, if you will just wait this thing out. That is exactly what I think they will do—sit and wait. I want to make some preliminary remarks leading up to that thought.

Mr. President, thousands of words have been spoken on the McGovern-Hatfield amendment which is known as the so-called end the war amendment. This amendment in its present form would limit the use of funds in such a manner that the troop level in Vietnam would be no more than 280,000 after April 30, 1971, and thereafter funds could be expended only for the systematic withdrawal of all our Armed Forces by December 31, 1971, with the proviso that the President, in his own right, could suspend the December 31 date by 60 days; and, further, the President must within 10 days after any suspension submit for congressional approval any recommendation for a new date of termination. The amendment would permit the use of funds in connection with the release of prisoners of war and provision for the asylum of Vietnamese. I should note, also, that this limitation of funds applies to the "activities of American Armed Forces in and over Indochina."

Mr. President, it is my firm conviction that this amendment involves only one basic issue—the question of how we shall conduct our withdrawal from Vietnam; not shall we do it, but how shall we do it? There is no doubt that the goal of both the President and Congress is the same—that we shall wind down this war. The direction or trend of American combat activity is irreversible. It will be reduced on a systematic and orderly basis. The basic issue, therefore, is the wisdom of whether we should legislate the end of this war through the denial of funds and force the withdrawal of our forces on a definite date or whether we should provide the President as Commander in Chief with the necessary degree of discretion which will permit our withdrawal on an orderly and honorable basis.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. McGOVERN. Mr. President, I want to commend the Senator from Mississippi for drawing the issue precisely as it ought to be drawn. When he said that the basic issue is "how shall we conduct our withdrawal from Vietnam," I think he phrased the question we are debating here as well as it can be stated. Regardless of how one feels about the answer to that question, that is the issue.

The Senator has said on several occasions that he regards this amendment as a perfectly constitutional amendment, and I appreciate that. I do not think the issue is the question of whether this amendment is constitutional or not, because it is clear that Congress does have the power of the purse; that we can cut off funds for any military operation at any time we see fit.

So I rise not to interrupt the Senator's speech but simply to commend him for the fairness and the wisdom he demonstrates in drawing the issue as cleanly and as sharply as he can in a debate on how we can best disengage from this war.

Mr. STENNIS. I thank the Senator very genuinely. I think it is the duty of all of us to get at the issue the best we can. In saying that the basic issue is

"how," I do not try to discount all those who argue about the powers of a Commander in Chief on the battlefield. I believe in that doctrine, but I believe the overall question here now is the matter of how we are going to end it.

I include in my thoughts on "how," the proposition that we are not willing just to withdraw, just to leave in any way. I want to make that clear. I am not advocating that. I am sure the Senator understands.

Mr. McGOVERN. Yes. I did not want to make the Senator's argument for him, to try to put words in his mouth, but simply to say that I do think that what we are arguing about here or should be discussing is the question the Senator has raised. What is in our national interest? How can we best wind down this war and disengage with a minimum of danger to our troops, keeping in proper balance the Commander in Chief function of the President and the power of the purse of Congress? How can we best maintain our credibility as a nation in the world and our responsibilities to our own people?

All those things really go back, I think, to the question the Senator has raised as to how we can best wind down the war and disengage and bring it to an end.

Mr. STENNIS. I thank the Senator very much. I am going to say something against a legislative termination only, but I am going to say again, too, that I think the Senator's amendment is directly right on the button of the Constitution, that it is a limitation on appropriated funds, and only Congress has the power to appropriate money.

My opposition to this amendment does not mean that my desire to end the war and return all of our fighting men from Southeast Asia is less than that of any other Member of the Senate. I do not believe, however, that we should cut and run from Vietnam by a legislative termination date which will broadcast to the enemy and the world the precise nature of our plans. When we leave South Vietnam—and I hope this will be soon—I believe we should leave with the American flag flying proudly and not dragged in a disorderly retreat.

The adoption of this amendment would be interpreted around the world as the beginning of a disorganized retreat under the mandate of the legislative body.

I would observe, Mr. President, that the pending amendment is completely constitutional. There is not the slightest doubt that Congress has complete authority to limit the use of funds for this or any other war, or for that matter, on any other activity regardless of whether it is related to the Department of Defense.

Mr. President, we are under a mandate to provide for the national security, I know, in 2-year intervals. We have to support the Army and the Navy. But I do not think that language is broad enough to mandate the situation. So I think Congress has the duty and responsibility, and I have urged many times on the floor of the Senate that we pass these appropriations. Congress has the responsibility for doing that, and can put limitations on it. The clear and unequivocal constitutional authority of the Congress over the "power of the purse" removes any doubt as to the legality of this amendment. The only issue concerns its wisdom.

Let me briefly outline some of the issues raised by this proposal. This amendment extends notice in advance to the enemy as to our precise intentions. I can think of no more difficult position in which this proposal would place the President and the country. I say "the" President. I am not talking about Richard Nixon. I am talking about "the" President, whoever he may be at any time. All those who oppose us in Vietnam would have only to sit and wait. This is no way to conduct a systematic withdrawal of a military operation. I believe it is contrary to all known, recognized, and agreed principles of military operations in warfare.

I remember a story told in jest about the captain who had already lost one limb in battle, but he was able to get back to the frontlines, and things were getting so hot for everyone, he told his company, "Well, we will retreat at 2 o'clock but inasmuch as I am lame I will start out a little early even though it is just 1 o'clock."

I do not think we should send word to the enemy that we are starting our retreat irreversibly, and that by a certain date we will be gone.

Our principal objective in South Vietnam is the Vietnamization of the South Vietnamese forces—that is, to furnish them the equipment and training in such a way that they will be capable of defending the country with their own men and resources. Until that is done as part of the present plan, we will be staying there in unknown numbers and taking part to an unknown degree in the fighting. I had grave doubt as to the possible success of this program for a long time. I do not try to describe the long time but I think it will take some time. No one knows exactly. It could be some time or a long time. I think that more time would be required. It is my present belief that the Vietnamization effort will be a success. I believe that much more strongly now than I did at the beginning, even 6 months ago. We must, however, allow a degree of flexibility in order to insure that time will not be so inflexible as to preclude the completion of this vital program.

Let me emphasize, Mr. President, that I do not question the patriotism or sincerity of those who offer this amendment—their unquestioned patriotism, their fine war records, and the outstanding service they have behind them. However, I do question their judgment. To set publicly a day certain for terminating our operations in Vietnam and removing American troops, would only make the situation more uncertain and more dangerous by encouraging our enemies to avoid negotiation and, to the extent possible, to avoid combat until our troops have been withdrawn.

The only thing the enemy would have to do would be to sit down and wait. I do not say that is all they would do. They would sit down and wait in some parts but in others they would terrorize and "guerrillaize" us in many ways and in many places during that time. That is my estimate of their approach as to what it would be basically. They would not be forced to have to meet any timetable. They would just merely wait until we were out of the way.

Under the Nixon doctrine, we are continuing our efforts to help the independent nations of Southeast Asia to choose and shape their own future and are encouraging them to assume the burden of their own defense. I believe that we should continue in this direction and in the pursuit of these aims. I am not advocating that we assist the Cambodian Government or anything like that. I want to make that very clear. But in a general way and in a general direction we should pursue those aims.

I believe that we can rely on President Nixon's promises with respect to our plans in Southeast Asia and with respect to our plans in the Paris negotiations. Until those promises fail to be honored, the President deserves our support in his efforts to bring about genuine negotiations for a just settlement in Southeast Asia.

Mr. President, let no one scoff at the peace negotiations in Paris. I know a little about the heartbreak and the hard work that has gone into that effort over there by the present President and the preceding President. I know the genuineness of the efforts of our men in Paris and I know of the continued rebuffs they have endured. But I believe that, instead of torpedoing the negotiations and putting on a mandate here by the legislative branch, we should support the efforts of our Paris peace negotiators. They are sincere. The executive branch is doing everything it can to bring about results consistent with the predicament we find ourselves in, the honor we must maintain, and the leadership we are forced somewhat, against our will by circumstances, to assume throughout the free world.

Instead of thinking up ways to put a limitation on here, we should be thinking about ways to strengthen the hold of those charged with representing this Nation at the Paris peace negotiations. And who is that? It is our Chief Executive. It makes no difference what his name is. He is the only negotiator we have. He is the only man who can speak for our entire Nation. He is the only President we have. He is the only spokesman we have in all our international affairs, and that includes this war.

All of that is known around the world, of course, however little others may know about our system of government. They know that our President is the Chief Executive of this country and that he speaks for the Government of the United States. He is the one individual chosen by the people of this great Nation to act for them. As he has already declared, he wants to stop this war. I believe that he has shown that he does. I am not here to praise him. But he represents the voice of this Nation in all our international affairs. He was chosen by the people. This war has been one of the most important

things on his mind, as well as on the minds of all the people. He was chosen by them to conduct the war and to negotiate a peace.

The people want a peace they can live with, too, one that will not set a precedent and open the door to worse trouble than we are now in. There is no doubt about that.

I have no doubt about the sentiments of the Senate when the time comes to vote on the pending amendment. By a very clear margin, in my humble judgment, a majority of Senators will not agree to a cut-off date at a certain time. Every Senator wishes to end the war. The great majority of this body realizes what we are up against. They certainly know the system of government they represent and the type of enemy we have in Vietnam, and even though the going is rough, they are willing to "tough it out."

Mr. President, I believe that these efforts would be torpedoed by the adoption of this amendment, and I hope that it will be rejected.

Mr. McGOVERN. Mr. President, I yield myself 3 minutes so that I may respond to the Senator from Mississippi and ask a question.

The PRESIDING OFFICER (Mr. GRIFFIN). The Senator from South Dakota is recognized for 3 minutes.

Mr. McGOVERN. I should like to ask the Senator a question with reference to his fears that if we were to announce a time certain for withdrawal, the other side would simply sit and wait.

When we get right down to it, why would they be anymore likely to do that than they would merely to sit and wait out the President's withdrawal plan? The President says that it is irreversible, that we are getting out under his plan. That being the case, what difference does it make in terms of the enemy's plans, whether they wait until December 31, 1971, or wait out Mr. Nixon's plan? In either case, it is a matter of sitting and waiting.

Mr. STENNIS. Mr. President, the President said:

I am planning to come out. I am planning certain programs. Our overall program is to come out. Here is a part of the program.

The program did not guarantee a date or time. On the other hand, he said:

Nevertheless, if necessary I will use the power of this Nation in a progressive and forward way.

He said:

I am not promising under all circumstances that I will not hit them again.

He is very wise in taking that position. If we adopt this amendment, we will be catching his right arm up in the air and holding it and leaving him without the permission or authority to back up his word. We would be withholding power from the man in office.

Mr. McGOVERN. Mr. President, the Senator knows that the way in which the amendment is drafted, if the President needs authority, there is a provision in the amendment for Congress to give it to him.

As I said to the Senator from West Virginia earlier, that is where the Constitution intends to place the warmaking power, in Congress and the President jointly.

In addition, he has complete flexibility to do anything he would like prior to the deadline. And he could come back to Congress at anytime for additional authority.

Mr. STENNIS. Mr. President, I do not believe that the Senator had that provision in the original amendment.

Mr. McGOVERN. The Senator is correct. We did have a provision in the original amendment that the President could come back and ask for an extension of time. We did not give him a 60-day leeway without asking for an extension of time.

Mr. STENNIS. Mr. President, the enemy is saying, "They have a man at the head of the Nation whom they do not give any more authority than a 60-day emergency clause. We do not believe he has the influence to go back and get more time."

We would be killing off his powers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for an additional 3 minutes.

Mr. STENNIS. Mr. President, we would be torpedoing his powers and responsibilities. I say that we should keep the responsibility on him. I do not want to relieve him of a bit of it. Keep the responsibility on him and retain his duties as the Constitution declares them to be.

Mr. McGOVERN. Mr. President, if I can say so respectfully, that might be an easy way to put the responsibility on the President. But I do not think we can do that and dodge our obligation under the Constitution as Members of the Senate. We do have an obligation to carry that burden with the President.

Mr. STENNIS. Mr. President, I did not tell the President, "I am with you regardless of what you do." I never promised that. The reason that I did not promise it is that I have a responsibility, too.

Mr. McGOVERN. Mr. President, I call the attention of the Senator to the views of Mr. Townsend Hoopes with reference to the negotiations, writing in the July 1970 Foreign Affairs Quarterly.

He said:

The resulting deadlock at Paris ought not to be surprising; it reflects the fact that our present political aims exceed our bargaining power.

Then he goes on to make this interesting point:

To put it bluntly, the one thing we can negotiate at this stage of the war is the manner of our going. Averell Harriman, who speaks with a special authority on the subject of negotiations with the North Vietnamese, appears to believe that if we would declare our intention to leave South Vietnam, we could negotiate not only the return of our prisoners, but also the formation of a neutral government in the South, including but not dominated by the National Liberation Front, and committed to settlement and cordial relations but not merger with North Vietnam. According to Mr. Harriman, an unambiguous American declaration of departure could bring the Russians into a cooperating position, and could thus establish the preconditions for international guarantees of the negotiated arrangements, including, after a reasonable period, international supervision of all-Vietnam elections.

I ask the Senator if it is not just possible, and I think probable, that by announcing a definite time for our withdrawal we might break the deadlocked negotiations in Paris and the other side would find it advisable, knowing that we would move out at such and such a time, to negotiate questions with reference to prisoner exchange and the government in the south and perhaps asylum for people who might be jeopardized by our withdrawal.

It would seem to me that a whole series of things would be open for negotiations, whereas now nothing is happening, as the Senator knows, in terms of the negotiations in Paris.

As far as I know, in 2 years they have settled on nothing but the shape of the table, but no one has been around the table.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself 1 additional minute only.

The PRESIDING OFFICER (Mr. DOMINICK). The Senator from Mississippi is recognized for 1 additional minute.

Mr. STENNIS. Mr. President, we have a responsibility and authority here. I have read that article. I did not have time to read very much, but I did read that.

My reaction is the other way. As I understand the enemy and their record, I think that things would occur as I have said.

Mr. McGOVERN. I thank the Senator.

Mr. STENNIS. I thank the Senator very much.

Mr. President, I ask unanimous consent that if I am not on the floor when the Senator from Missouri finishes, that the Senator from Kansas (Mr. DOLE) be recognized for 10 minutes and that he have charge of the time on this side in my absence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I yield 10 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mr. EAGLETON. Mr. President, it is possible to understand how we became involved in Indochina. It is far more difficult to understand why we have not extricated ourselves.

We became involved in 1950 because of the cold war and the fears that were raised by the thrust of international communism.

After World War II, Russia—expanding, aggressive, and leader of the Communist world—was on the move eastward toward Western Europe, southward toward the Mediterranean and westward toward China and perhaps Japan.

Our response was firm, swift, and positive. It was a success partly because of our resolve and partly because our programs were specifically designed to meet a specific threat.

Townsend Hoopes points out that—

The restoration of Western Europe and Japan, and the effective blunting of Moscow's ideological military thrust, required only eight years.

Our efforts had been totally absorbing and unfortunately had shaped the thinking of an entire generation of policymakers. Containment and mutual security became all-purpose policies to be exported throughout the world.

These policies failed to delineate the difference between nationalists who were Communists but posed no threat to American national security, and expanding Russian or Chinese communism which could gravely affect us. Yet these policies still guide our destiny in the jungles of Southeast Asia.

The sad history of how we slid into Vietnam need not be recounted. It is done. We are there. We must get out.

But unless and until we change the overall thrust of U.S. policy—which the McGovern-Hatfield amendment does—we will find U.S. troops involved in South Vietnam indefinitely and, despite the best intentions of the Nixon administration, in Cambodia as well.

Recent events in Cambodia are all too familiar. We have seen the process before. The characters and places have changed, but it is still the same cold war script.

Instead of Dulles and Eisenhower propping up South Vietnam with economic and military assistance to keep the other countries of Southeast Asia from falling like dominoes, the Nixon administration is now helping Cambodia in order to protect South Vietnam.

A brief foray into Cambodia to capture enemy supplies and weapons was extended. It had, President Nixon told a group of Congressmen on May 5, a "subsidiary purpose" of relieving the Communist pressure against the Lon Nol government.

Then President Nixon stated on May 8, 1970, that he "would expect that the South Vietnamese would come out approximately at the same time that we do because when we come out our logistical support and air support will also come out with them." The South Vietnamese forces stayed, occasionally teaming with Cambodian forces far from the sanctuary areas.

Despite President Nixon's statement on June 3 that "the only remaining American activity in Cambodia after July 1 will be air missions to interdict the movement of enemy troops and material where I find that it is necessary to protect the lives and security of our men in South Vietnam," American planes are now flying support missions for Cambodian forces throughout Cambodia.

In addition to almost $50 million in military aid, another $200 million in economic aid is now reportedly on the drawing board.

Then last Sunday, the Vice President of the United States pledged that we would do "everything we can" to see that the government of Lon Nol survives, and raised the specter that if Cambodia falls, Vietnamization may grind to a halt.

And yesterday the Vice President went even further, stating:

American forces will not be involved in the Cambodian fighting unless in the judgment of the U.S. commander, General Creighton Abrams, and of course the people who have to make decisions, that the security of American troops is threatened.

To the Vice President, "people who have to make decisions" and President Nixon are synonymous, and the President has already spoken in a way that leaves a little doubt about his intentions.

On April 30, the President stated:

If the enemy succeeds, Cambodia would become a vast enemy staging area and a springboard for attacks on South Vietnam along 600 miles of frontier—a refuge where enemy troops will return from combat without fear of retaliation. . . . North Vietnamese men and supplies could then be poured into the country jeopardizing not only our own but the people of South Vietnam as well.

In other words, if military assistance, economic aid, close air support, and a generous helping of foreign troops from South Vietnam and perhaps Thailand are insufficient to save the government of Lon Nol, U.S. forces may intervene further.

But Congress too has decisions to make. Congress is charged with the constitutional responsibility to make decisions on whether this country goes to war, Vice President AGNEW notwithstanding.

And, by passing the McGovern-Hatfield amendment, Congress fulfills that responsibility. For, although the language of the amendment deals only with Vietnam, it offers a far broader blueprint for American foreign policy.

By writing the Nixon doctrine into law, as the McGovern-Hatfield amendment does, Congress is saying to countries in Southeast Asia and elsewhere that the United States cannot and will not do for you what you are unable or unwilling to do for yourselves; to the Thieu-Ky regime in Saigon, that 50,000 American soldiers will not remain indefinitely as hostages to your survival; and to Cambodia, that no American combat troops are coming.

And hopefully by implementing what the Nixon doctrine preaches but fails to practice, the passage of the McGovern-Hatfield amendment will mark the first step on the long road back to reality for American foreign policy.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I commend the Senator from Missouri for his succinct and compelling statement for the amendment. I thank the Senator for the role he has played in helping us to draft this amendment and improve it as the situation changed.

Mr. EAGLETON. I thank the Senator.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I will defer to the Senator from New York if the Senator from South Dakota yields time to him. The Senator from New York has a schedule to make.

Mr. McGOVERN. Mr. President, I am happy to yield to the Senator from New York such time as he may need.

Mr. JAVITS. I thank the Senator. I will only be 10 minutes and if I need more time I will ask for it. I am grateful to the Senators.

The PRESIDING OFFICER. The Senator from New York is recognized.

AN AMENDMENT TO END THE WAR

Mr. JAVITS. Mr. President, I have come to my decision on the so-called McGovern-Hatfield amendment very slowly, after much thought, and only based on its complete redrafting. To me it is a very basic decision and I think the individual terms are designed only in order to demonstrate the impact of that decision.

The basic decision between ourselves and the President is: Shall we fix a date for withdrawal from Vietnam or shall we leave it open? By leaving it open we would leave it to the President, giving him the benefit of all good faith, feeling, in terms of withdrawal, that we would do it "as soon as it possibly could be done." That, to my mind, is the issue.

Mr. President, in coming out for the McGovern-Hatfield amendment, I have come down on the side which says "fix a date." That is the real issue here.

Mr. President, during this legislative session the Senate has had its mettle challenged on numerous grueling occasions. There have been debates and decisive votes on many of the key issues of domestic policy. In the international sphere, classic struggles have been waged concerning policy in Cambodia, over the ABM and the nuclear arms race. Now, the Senate is being called upon to face up to its most important duty. That duty, simply, is to fulfill its constitutional responsibilities with respect to the war in Vietnam.

In my judgment, however, there is a great deal potentially to be concerned about if the Senate does not act positively by adopting this amendment. In a policy sense, the defeat of this amendment leaves up in the air possible further U.S. involvement in Indochina.

The Vice President already has asserted that:

We are going to do everything we can to help the Lon Nol Government:

He is further quoted as warning that—

It would be impossible for United States combat troops to pull out of South Vietnam if the Communists overthrew the Government of Lon Nol and took over Cambodia.

Mr. President, I am greatly concerned that this school of thought will be greatly strengthened in the councils of the Nixon administration if a date is not fixed for getting out of Vietnam.

Also, there is, in my judgment, a constitutional danger which might threaten the very foundations of our system of government and liberties; and that is the implication that the Presidency is beyond the control of Congress in the exercise of the Nation's war powers and the conduct of its foreign policy.

Within the course of this very year, it has been asserted that it is desirable that the President be deemed to have the power to acquire foreign bases without reference to Congress, to deploy the Armed Forces abroad without reference to Congress, and to take whatever action he feels necessary to protect these forces wherever he has deployed them—all

without reference to Congress. It has been asserted, too, that the President may take these actions without the advice of the Senate and that he may withhold pertinent information concerning those negotiations from the Senate on security grounds, although details may be freely communicated to foreign governments who are not a party to the negotiations.

Recent remarks of the Vice President even have hinted that the President is not bound by congressional action and appropriation in the expenditure of public funds. In commenting on the possibility of the Cooper-Church amendment becoming law, the Vice President is quoted as stating:

> There are many ways to bring about financial assistance to a friendly nation.

Mr. President, there has been considerable public comment about recent efforts within the Congress to reassert the war powers reserved to the Congress in the Constitution. I am a participant in this on-going effort and I believe that my oath of office requires me to do this.

What has been noticed, Mr. President, is that the reassertion of congressional authority has led to a countervailing hardening and intensification of assertions of unilateral and unfettered Presidential prerogative. Our action has produced a reaction. The situation is now a dynamic one, in which it is impossible for us to stand still. If we back off now, we may not be able to preserve even the position we now hold, because of the counter pressure of claims for the Presidency.

A further expansion of the powers of the Presidency, in present circumstances, could leave the nation dependent solely upon the good judgment and benign intent of the incumbent. And, though we have a high standard for eminence in the Presidency in our history, the centuries of the struggle for freedom teach us that our liberties require firmer institutional safeguards if they are to survive. This is the basis of our constitutional system of checks and balances.

To some of my colleagues who are most illustrious captains of earlier battles I would like to borrow a most apt exhortation from Shakespeare: "Once more into the breach, dear friends, once more."

The question before the Senate is amendment 862, principally sponsored by Senators McGOVERN and HATFIELD, along with Senators GOODELL, HUGHES, and CRANSTON and a considerable number of other Senators. As everyone knows, the language to be voted on today differs very significantly from the language of the original "end-the-war" amendment language first introduced on April 30. I commend the sponsors for the sincerity they manifested in their willingness to go that extra mile—by again revising their amendment—so as to make it conform to the approach of a broader group in the Senate.

And, I am gratified to have been able to join in bringing about the final revisions which are embodied in the amendment now to be voted upon. In my judgment we now have a formula which meets the basic criteria in a situation such as this. In a most responsible and carefully considered way, it says something significant while preserving flexibility and taking due account of the President's responsibility and prerogatives. I did not support the original version of the McGovern-Hatfield amendment because I did not think it met those criteria. I have cosponsored the present amendment because I am confident that it does.

The amendment is no longer structured in a way which suggests that the Senate has only the alternatives of declaring war or bringing about an abrupt end of military operations through a denial of further appropriations at the end of 1970. In my judgment. the differences between the present amendment and the original "end-the-war" amendment are well expressed in the editorial of the Washington Post on August 28.

To me the most significant difference between the original and the present amendments is in the difference in the views they articulate of the responsibility of the Senate with respect to the Vietnam war and the exercise of the Nation's war powers. Amendment 862 is a positive amendment. It is an affirmative assertion of the will and the authority of the Senate in conjunction with the President's exercise of his authority. It is not a dissenting amendment. It is not an "opposition" amendment telling the President that we are going to cut off money because we do not like what is happening.

This amendment presents the Senate with a unique opportunity with respect to the war in Vietnam. In adopting this amendment, the Senate will have asserted a national policy for ending the war through the establishment of a terminal target date for the disengagement of U.S. military forces.

This would be an exercise of the Senate's constitutional role of advise and consent in its highest sense.

The Senate has voted twice to repeal the Gulf of Tonkin resolution, by which it gave the President the broad authority to wage war in Southeast Asia without any time limitation. The Senate must now give its advise and consent to a policy of terminating the war in Vietman. In doing this we are not opposing the President in any fundamental sense. Rather, we are sharing with him, through a positive action in our own right, the responsibility for bringing an end to the Vietnam war.

In its most important provision this amendment established by statute the national objective of: "the orderly termination of military operations there and the safe and systematic withdrawal of remaining Armed Forces by December 31, 1971."

These are objectives—omitting the date—which the President himself has proclaimed publicly to the Congress and to the American people. The President is given great flexibility in achieving these objectives. In the final "proviso" clause there is a built-in mechanism which enables the President to extend the terminal date for military disengagement by 60 days, if this should be warranted by circumstances. And, he can ask the Congress for a new termination date altogether.

In saying that this amendment does not oppose the President. I was not trying to gloss over the difference of approach which undoubtedly exists between the administration and the supporters of this amendment concerning the Vietnam war. The virtue of this amendment is that it enables the Senate to express effective opposition to the war, without placing itself in a position of confrontation with the President. This is how our constitutional system is designed to work. The exercise of the Senate's constitutional responsibilities to declare war through this amendment in no way impedes the President's exercise of his constitutional responsibilities as Commander in Chief. The President may not be happy with the national policy of fixing a withdrawal date contained in this amendment, but he has no grounds for feeling that the Presidential power is invaded.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield

Mr. McGOVERN. Is it not a fact that the amendment leaves absolutely intact the President's function as Commander in Chief so long as there is one single American soldier in Indochina, up until December 31, 1971, or if it is extended, up until the end of that extension. The President is in total command, is he not, of any American forces that remain in the theater of operations?

Mr. JAVITS. That was my motive in selecting the language which I did. I must pay tribute here to my colleagues who are sponsoring the amendment for their willingness to amend their language, once convinced, and without being rigid adherents to their own draftsmanship.

I would like to make clear that the President remains Commander in Chief, but the power of Commander in Chief, and this is a constitutional question, does not include the power to declare war or to make war of a kind which can only result from a declaration of war. That is what we have here.

Mr. McGOVERN. Or to provide money for the war.

Mr. JAVITS. That is exactly right.

Mr. McGOVERN. If the Senator will yield further, I just want to take a moment to express the appreciation that I know every cosponsor of the amendment feels. The senior Senator from New York was a principal draftsman in improving the language of the amendment. He has worked very closely, patiently, and helpfully with the cosponsors of the amendment from the very beginning, and has given us generously of his legal and constitutional knowledge and his experience as a member of the Committee on Foreign Relations. I know I speak for many Members of the Senate in expressing the appreciation we feel for the leadership he has provided.

Mr. JAVITS. I am grateful to my colleague for his very kind remarks.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. May I have 5 minutes?

Mr. McGOVERN. I yield 5 minutes to the Senator from New York.

Mr. JAVITS. We know that no general has ever had enough troops. No general ever had enough transport. No general ever had enough time to deal with a military operation, whether it was for an attack or defense. Never in the history of warfare has any general conceded that he was completely ready.

The same thing is true for Vietnamization, which is finally under the control of the government of Saigon. Therefore, until they say they are ready, there is no completion of Vietnamization. If that is going to be our timetable, then it is without end. It has no date at all.

I do not think the President feels that way. I think the President has a date in mind. I am sure of that. He is intelligent and sensitive, a human being of high distinction. But unless that date is shared with the American people and the Congress, unless Saigon knows that is the end of the road, it is not going to pay attention. One can always talk with the President, which is a private matter. There is no desire to have an operation in Vietnam that is discreditable. If I were Mr. Thieu or Mr. Ky I would advise the President that, as between a published date and an unpublished date, the published date is worse for them—but better for us.

The veto in the hands of Hanoi is similar. Hanoi has taken the position that this is a civil war and as long as there are American troops in Vietnam, there is a foreign military power at work and the civil war cannot be settled between the parties.

In view of the fact that the President has announced withdrawal anyway, we might just as well give notice in the most effective way possible that we are ready to see a political settlement, this time between North Vietnam and South Vietnam, and just as South Vietnam could not exercise the veto on Vietnamization because there was a fixed date, so there would be an enormous inducement, both to Hanoi and Saigon, to negotiate a political settlement precisely because there was a fixed date.

Mr. McGOVERN. Mr. President, will the Senator yield at that point?

Mr. JAVITS. I yield.

Mr. McGOVERN. The Senator has made reference to the fact that there are really two vetoes over our policy in Vietnam now, one of those vetoes being held by Hanoi and the other by Saigon.

If what the Vice President told us a week or so ago is correct, that the whole thing is off if the Lon Nol government falls, that both Vietnamization and assured American withdrawal are ended if Lon Nol——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McGOVERN. I yield myself 5 minutes.

If all of that is true, that Vietnamization and the withdrawal timetable that we are presently on depend on the capacity of the Lon Nol government to survive, have we not now added a third veto that hampers the control of our policy?

Mr. JAVITS. We may very well have done so, except that, frankly, I can hardly believe that we have done that. I can hardly believe that American policymakers, aside from general remarks to buck up the Lon Nol government, are really engaged in such a commitment which, as the Senator properly says, if made would build yet a third veto into the situation, and keep us there perhaps even longer than the first two.

Mr. McGOVERN. I think the Senator has underscored, in his remarks today, a problem that has for years bedeviled us in Vietnam, and that is that there is a difference between our interests and the interests of our ally in South Vietnam.

The President has said, if I read him correctly, that we would be willing to consider a coalition government—I think he referred to it as a government representative of the major political interests in the South—but General Thieu says he will never consider that, he will never share his power with his challengers in the South.

I think the Senator is correct in saying that President Nixon is looking toward withdrawal at some time, but Mr. Thieu says it is ridiculous to talk about that now. When the President expressed the hope to the American people that the South Vietnamese forces would come out of Cambodia when we did, Mr. Thieu said, "That is silly talk from silly people."

I think all of this—and the thrust of the Senator's remarks makes this very clear—shows that we are involved in a situation where, until we do take control of our own policy, we are going to be tied to the government in Saigon, which has interests far different from our own.

Mr. JAVITS. Mr. President, I think that is of extreme importance. But it seems to me that we need not discredit the government in Saigon to make that acknowledgement. I have no desire to tear them down. When we leave, I hope they make it. As I say, I have no desire to tear them down; there is no need for it.

But let us face the issue that if they are ever going to have any political relationship with their own people who are fighting them—and there are plenty of those in addition to the North Vietnamese—we must provide a timetable within which they will have to do it.

Mr. McGOVERN. Is it not true that there is an army of some 1 million men under the command of General Theiu?

Mr. JAVITS. There is a million-man army, and they are beginning to develop an air force. They are showing considerable signs of self dependence in Cambodia, where some of their forces are now, and certainly in Vietnam.

It seems to me that every nation which goes in to do what we wanted to do, which was to help a small people achieve the right to determine its own future, must have some terminal point for its efforts. Really, on moral grounds, we had the same reason for going into Czechoslovakia under the United Nations Charter, or Hungary. Obviously, those would have been insane commitments. We took this one, which in my judgment was very improvident.

But, Mr. President, there must be some terminal point, some conditions, some outside parameter to that effort and Congress has a role in defining what it is.

That leads me to this question, which I think is basic here: the question of defeat as far as the United States is concerned. It reminds me, in the reverse, of what Senator AIKEN said one day, "Let us just say we won, and get out." We may as well say we lost and get out. The point is, we never went in to win or lose; we went in to give a small nation an opportunity to seek its own solution, its own way out. Our commitment was always limited, in many ways. We could wipe out North Vietnam in two afternoons; everyone knows that. But no one would want us to do that, in the beginning or now.

Besides that, we are not there to win and we are not there to lose; we are there to do a particular thing in terms of assisting the right of a small people to find its own place in the world. The President himself has now decided that issue. He himself says he is going to withdraw. So all we are talking about is what shall be the timetable, and shall it be in his mind or shall it be written into the law?

In my judgment, that is the central issue. There is no other issue involved. He himself says he is getting out as soon as he possibly can. The central issue is, shall we set a date? On that issue, I believe the weight of the evidence is now on the side of the proponents of the amendment, and that is why I have joined in supporting it.

Mr. McGOVERN. As far as simply saying we have won and getting out is concerned, it is my view that we have applied that doctrine in Cambodia, and I hope we can sustain it there.

Mr. HATFIELD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McGOVERN. I yield myself 5 additional minutes to yield to the Senator from Oregon.

Mr. HATFIELD. Will the Senator from New York yield at this time?

Mr. JAVITS. Oh, yes.

Mr. HATFIELD. Will the Senator comment a little further on this question about our commitments in Vietnam, as to the legal aspect of them, under President Eisenhower? Are we under an irrevocable and clearly defined legal responsibility, upon which we would be reneging to withdraw at this time?

Mr. JAVITS. No, I have never thought that. I do not think President Eisenhower thought that. He rejected that proposition himself, in refusing to send troops in to bail the French out of Dienbienphu.

I doubt that we ever subscribed to any proposition which took us beyond our national interest or our constitutional processes, both of which are basically built into the American freedom of action in respect of this situation.

The implication of the commitment was contained in a protocol to the Southeast Asia Treaty. Indochina was not even a party to that treaty in any affirmative sense of being a contracting party. It was a kind of third party beneficiary, to use a legal term, and always

on the basis of the volition of the United States, plus obedience to American constitutional processes.

On both grounds, the interests of our country and the right of our country to determine when it would or would not act in a given situation, and the assertion now of the congressional authority, seeking that it be joined with the Presidential authority, I see no legal basis which could lock us into Vietnam as against an exercise of the authority by the President and Congress which would be represented by this enactment.

Mr. HATFIELD. Mr. President, will the Senator yield further?

Mr. JAVITS. I yield.

Mr. HATFIELD. The Senator is a member of the Committee on Foreign Relations, where he has been serving with great distinction. In view of that service and his long involvement in concerns throughout the world of problems that lead to peace and war, would the Senator not agree that those who say that this is a neoisolationist move or a neoisolationist trend in this country are completely in error, because among other sponsors and supporters of this amendment are men who are well known for their concern about international commitments and international involvement? Would the Senator not agree that this kind of tiedown to an interminable period in Southeast Asia actually creates a possibility of less likelihood for the United States to assume its rightful role in other parts of the world, where there is a greater threat to the peace existing even today?

Mr. JAVITS. I agree with that, and I would like to make just one brief observation on that point. There is a lot of speculation in the world that the American people have somehow relinquished their interest in the world and are no longer concerned with playing an activist role in peacekeeping in the world. That does not mean we have withdrawn, but just that we will carry only our share.

I think the events in Vietnam and the terrible division in this country which they have engendered have intended to magnify that. I do not believe that the fundamental feeling of responsibility of the American people has changed, but I think it has been inhibited by the way in which events in Vietnam have gone. I believe that we would tremendously free America to take its role in the world in terms of building peace elsewhere, if we would end this particular involvement.

Mr. HATFIELD. I thank the Senator.

It seems to me, both from the standpoint of the statement made today on the floor of the Senate and the very outstanding contribution made by him on a national television program last Saturday night, the Senator from New York speaks not only as an authority with much background from the Committee on Foreign Relations and other involvements, but also as one of the outstanding constitutional lawyers in the Senate. Therefore, I think his testimony and his comments should weigh heavily in the minds of those who are uncommitted. I do not think anyone could charge the Senator from New York with being other than intimately and deeply concerned about all our involvements in the world, our leadership in the world, for the cause of peace and the upholding of our legal commitments and our legal responsibilities.

I thank the Senator from New York for his contribution in helping to revise the language of the amendment and the leadership he has given on the floor of the Senate and elsewhere on behalf of this amendment at this time.

Mr. JAVITS. I thank both my colleagues.

Mr. McGOVERN. Mr. President, how much time do the proponents of the amendment have remaining?

The PRESIDING OFFICER. The proponents have 26 minutes remaining.

Mr. McGOVERN. That is out of the 2½ hours that we are allocated today?

The PRESIDING OFFICER. That is correct.

Mr. McGOVERN. I yield 5 minutes to the Senator from Idaho.

Mr. CHURCH. Having achieved our basic objective of serious negotiations tied to an orderly withdrawal from Vietnam, what task remains for the doves to perform?

There are two major undertakings left. First, we must keep up the pressure so that President Nixon's withdrawal from Southeast Asia will remain as irreversible a process as Secretary of State Rogers says it is. Second, in absence of a political settlement in Indochina, we must work to prevent a Korean-type prolongation of our Vietnamese misadventure.

On the first count, the sudden aberration of the Cambodian invasion illustrates the danger that Mr. Nixon might yet be tempted to reverse gears and reescalate the war should the Vietcong and the North Vietnamese fail to lie low. Already the administration is having to eat most of its words of reassurance to the American public, as it keeps getting edged into further involvement in Cambodia. An entire speech would scarcely do justice to that subject. Suffice it to say now that the current situation makes it overwhelmingly clear why the Cooper-Church amendment, passed by the Senate on June 30, needs to be enacted into law. It would prohibit any full-scale return to Cambodia without congressional consent.

On the second count, it should be painfully evident that we must avoid the trap of keeping a vestigial military presence in South Vietnam for the indefinite future. An American military foothold there is unnecessary to our security, unduly expensive, and disruptive to a final resolution of the Vietnam—or Indochina—problem. Moreover, it would militate against any improvement in relations with China over the long term, which should be the central objective of American foreign policy in Asia.

The Korean example should be proof and warning enough of this thesis. Seventeen years after the end of the fighting, we are still locked into Korea. At great expense, we have kept a sizable army there all these years. Now, as fiscal pressures compel a reduction in this force, an indignant Korean Government demands another $3 billion in military assistance as severance pay.

Nevertheless, the pressures mount for making the same mistake all over again in Vietnam. Writing from Saigon, Washington Post correspondent Lawrence Stern recently warned in an article datelined August 26, 1970, that:

> President Nguyen Van Thieu will press the case for maintaining a 50,000 man "residual" American military presence in South Vietnam during his talks today with Vice President Spiro T. Agnew.
>
> This, as far as Thieu is concerned, will be "Topic A" in the conversations at Independence Palace, according to qualified official sources here.
>
> So far there has been no official communication between Presidents Thieu and Nixon on the size of the American troop commitment to South Vietnam in what the presidential palace has begun to call the "postwar" period.
>
> In a recent dinner with a few Western correspondents on July 30, Thieu first floated his proposal for a 50,000-man American military force in South Vietnam to "guarantee the peace" after 1973—in what might be described as the post-Vietnamization period. . . .
>
> "We still have many things to ask of you," Thieu said to American correspondents during the July 30 dinner.
>
> U.S. Ambassador Ellsworth Bunker is known to feel that Thieu's position is a reasonable one and has, in private conversation, cited the precedent of South Korea where the United States maintained a "peacekeeping" force of about 60,000 troops for 18 years.

In my view, the adoption of the McGovern-Hatfield amendment—as it has been refined—would demonstrate that we have learned something from past experience, and that we are determined to sever the military umbilical cord which fastens us so tightly to the Saigon government. It would remove the gnawing suspicion that Vietnamization might be intended to promote a lingering, though lessened, American military presence in South Vietnam for the indefinite future. It would guarantee the withdrawal of all remaining American troops by setting a deadline beyond which they could not be retained without congressional approval. It would thus make certain that, unless Congress approved, we would neither reescalate our involvement in Vietnam nor permit our engagement there to be transformed into another Korean-type garrison for American troops on the mainland of Asia.

For these reasons, I shall cast my vote in favor of the McGovern-Hatfield amendment.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 10 minutes.

Mr. DOLE. First, Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in this morning's New York Times entitled "Sound Motive, Dubious Method."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUND MOTIVE, DUBIOUS METHOD

The Senate will vote tomorrow on the Hatfield-McGovern amendment to set a timetable for ending the war in Vietnam, an objective devoutly wished by millions of Americans. The framers of the measure have labored responsibly and creatively to extend the deadline for withdrawal of American forces and to allow the President flexibility in applying that deadline.

The question the Senate must decide is

whether adoption of the resolution will enhance the prospects of negotiating an honorable settlement in Paris and genuinely extricating the United States from its disastrous adventure in Vietnam.

It is an excruciatingly difficult question for those who deplore—as we do—the lack of candor and the outright deception practiced by this and the two previous Administrations with regard to the American involvement in this Asian morass. And there can be no doubt that in the course of this ill-starred adventure the Executive has often bypassed or ignored the Congress.

There is genuine danger for the American system in Vice President Agnew's reckless assaults on Senators Hatfield and McGovern and their allies, honorable men whose records refute his "pacifist" and "isolationist" labels. They have long agonized over ways to help free this country honorably from a fruitless and divisive involvement and they deserve better than to be attacked as architects of "a blueprint for the first defeat in the history of the United States."

The basic question remains, however: is this amendment the right way either to redress the imbalance of power in the Government or to advance the prospects for American withdrawal and peace in Vietnam?

The argument is used that the timetable in the amendment is roughly the one the President has set for himself; and that its passage would thus be a contribution toward a joint Executive-Legislative policy. But the President is careful to preserve his options and it seems unwise to fix a withdrawal schedule for him by law, even one that contains the loopholes now put into it by the measure's sponsors.

Most important, in our view, is the probable effect of a withdrawal deadline on the peace talks in Paris. Mr. Nixon insists that, despite the lack of a new negotiating brief, David Bruce has been given latitude to explore all possible avenues to a satisfactory settlement. It is just such vagueness that has caused many Senators to despair that American troops will ever be out of Vietnam unless Congress applies an independent prod.

A prod undoubtedly would be useful; the question is what kind it should be. That Hanoi has been stonewalling in Paris is no excuse for Washington's failure to take the initiative there.

Our own belief is that the best way to end the stalemate in Paris is through prompt United States sponsorship of a proposal for a standstill cease-fire by all forces in Vietnam. A Senate resolution to this effect might help to end the war. The Hatfield-McGovern plan, which differs merely in timetable from the Administration's Vietnamization objective, would only end the American involvement—and assure that the war goes on. For there will be little incentive for Hanoi to negotiate a settlement if the President is under Congressional mandate to meet a deadline for evacuation, however diluted.

The sponsoring Senators have labored overtime to make their amendment more reasonable and flexible, but we cannot believe that its adoption will bring closer the goal they seek.

Mr. DOLE. Second, I ask unanimous consent to have printed at this point in the RECORD an editorial published in the Washington Sunday Star of August 30, entitled "Asia: America's Great Withdrawal Begins."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ASIA: AMERICA'S GREAT WITHDRAWAL BEGINS

As Vice President Agnew winds up his four-nation Asian tour, it is clear that we stand at the end of one era and at the beginning of another. Three times in the last three decades, this country has sent ground units of its armed forces into battle on the Asian mainland. Now the great withdrawal has begun, and it is doubtful if ever again American troops will be committed on that huge land mass. That single fact is fraught with tremendous significance, not only for our own children but for the 60 percent of the human race which inhabits Asia.

The Western encroachment on Asia has deep roots. It began in the early years of the Sixteenth Century, when the Portuguese wrested control of the Indian Ocean from the Arabs. In the early chapters of that saga, the Portuguese, Spanish and Dutch contested with one another for the wealth of the Indies, with the French and British scrambling for their share a little later. In 1854, Commodore Matthew Perry's black ships opened up Japan, committing the United States to an Asian destiny more manifest to some than to others.

In a sense, it was inevitable that America should involve herself. From the moment the first settler set foot on these shores, he turned his back on Europe and felt himself drawn toward the setting sun. The course of empire saw the flow of a restless people across the great prairies until the shores of the Pacific were reached. But still the dying sun glowed red on the Western horizon and we followed it until our gunboats patrolled far into the interior of China. At the same time, the Russians were expanding their empire at the expense of China's western territories. At the apogee of the age of imperialism, foreign flags flew over virtually every Asian nation except China, Japan and Thailand. The harbinger of the end of that era was the defeat by Japan of Russia in 1905.

The seeds sown at Tsushima flowered in the 1940s and 1950s with the withdrawal of the British, Dutch and French from all but a few pockets of Asia. It was perhaps inevitable that the United States, in Korea in the 1950s and Vietnam in the 1960s, should attempt to fill the power vacuum left by the departure of the colonial powers.

Because the United States was a different country and the United Nations a different organization twenty years ago—and because that war was fundamentally a conventional one—we were able to prevent the Communist conquest of Korea, which commands that sea approach to north China, Manchuria and eastern Siberia, pointing like a dagger at the heart of Japan. Now, two decades later, we have 63,000 troops left in Korea. By next June, the United States will withdraw 20,000 of these, with total withdrawal, in Agnew's words expected in about "five years."

Historians of another era will have to judge whether the United States has "won" or "lost" the second Indochinese War. Clearly, despite the commitment of more than half a million troops, a military victory has not been achieved. Whether the time that has been purchased with so many deaths will prevent Communist domination of Southeast Asia in the decades to come remains to be seen. What is clear is that the American withdrawal of its fighting units has begun and is irreversible, given the country's present and foreseeable political sentiment. The presence of 49,000 U.S. troops in Thailand is unlikely to continue once the Vietnam phase-out is completed.

As a people, we have never been much on nuance and shading. We like our victories total and their surrenders unconditional. The failure to win such victories, to impose such surrenders, conjures up the danger that we may pick up our marbles and go home, turning our backs on Asia and the Pacific. Yet the United States cannot cease to be an Asian power. Five of our states are washed by the waters of the Pacific and one sits at the core of that ocean. We are committed to the defense of Taiwan and we have treaties—which President Nixon has promised we will honor—with no fewer than 18 Asian nations. In an economic sense, it would be disastrous for the United States to abdicate its interest in a continent which contains 92 percent of the world's rubber, 63 percent of its tin, 22 percent of its manganese and nearly half of its tungsten. As a world power, the United States can no more shirk its responsibilities in Asia than it can abandon its position in Europe.

Although Vietnam and the Middle East grab most of the headlines, it is in Northeast Asia in general—in Korea in particular—where the danger of great power confrontation in the 1970s looms largest. There, and there alone, do the interests of the two superpowers, the United States and the Soviet Union, and those of two aspirant superpowers, Communist China and Japan, intersect.

The Sino-Soviet quarrel, the outcome of which cannot be foreseen, has provided a temporary breathing spell in that sector. If this time is employed by Japan—a first-rate economic power but a tenth-rate military nation—to develop its security forces, the United States may be able to play a secondary role in this area. Until then, the security of South Korea, upon which that of Japan hinges, rightly will continue to be a matter of primary concern to the White House.

Walter Lippmann, who opposed the American involvement in Vietnam from the beginning, in our view takes a sound position in regard to what America's stance should be when we withdraw our combat troops from the mainland. Writing in 1964, Lippmann had this to say about the post-Vietnam era:

"A policy of stabilization in Southeast Asia demands that the American power and presence in the South Pacific shall not be withdrawn when our troops withdraw from South Vietnam. On the contrary, we should strengthen our position in the South Pacific. We should be able to do this if we do not forget, as we have allowed ourselves to forget, that we are a sea and air power."

Implicit in this is the suggestion that we must commit ourselves to the economic, political and military development of those Pacific island-nations which swing in a great arc from Japan in the north to Australia in the south. Inevitably, this will leave the small nations of Southeast Asia—South Vietnam, Laos, Cambodia, Thailand, Burma, Malaysia and Singapore—on a rather sticky wicket. While it is clear that the United States will continue to provide economic assistance and military hardware to these nations, the implications of Mr. Nixon's Guam Doctrine are that, with the exception of nuclear attack, they are pretty much on their own.

Ultimately, no Pacific settlement is possible until Communist China is admitted to the United Nations and the family of nations. This, of course, depends just as much upon the actions of Peking as it does on the attitude of Washington. But now that the excesses of the Cultural Revolution are behind it, China shows promising signs of wishing to normalize its relations with the rest of the world. Sir Robert Scott, a veteran British China hand, maintains that Peking's aims today "are little different from what they were fifty or a hundred years ago—unity, self-sufficiency, security." If this is so, the prospects for peace in the Pacific—or at least for the absence of large-scale war—are not as bad as they might be.

Russia's expansion of her high seas fleet and Moscow's peace efforts in the Middle East, which clearly are designed to procure the reopening of the Suez sea route to Asia, make it clear that the Kremlin intends to make its weight felt in the Pacific in the 1970s.

Under the circumstances, the United States, in the inevitable psychological depression of the post-Vietnam era, could make no greater error than to contemplate a withdrawal from off-shore Asia. In Japan and

Indonesia particularly, we have potentially powerful friends. Under the nuclear umbrella of the Nixon doctrine, these friends—and others—need to be encouraged and helped to build a Pacific Community of which the United States could be no more and no less than an equal member.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. HATFIELD. I thank the Senator for yielding for just a moment.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Washington Post of Friday, August 28, entitled "A National Policy to End the War," and an editorial published in the St. Louis Post Dispatch of Sunday, August 30, 1970, entitled "Two Critical Issues of the War."

Mr. DOLE. Mr. President, I ask unanimous consent that those editorials be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. I yield to the distinguished Senator from West Virginia.

MODIFICATION OF AMENDMENT NO. 754

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Wisconsin (Mr. PROXMIRE), I ask unanimous consent that amendment No. 754 to H.R. 17123, the military authorizations bill, be modified to make the language of the bill more consistent with itself. Legislative counsel has informed Senator PROXMIRE that the word "drafted" on page 2, line 12, should be changed to "inducted" in order to be consistent with the use of the word "inducted" on page 1, line 4, and on page 2, line 6.

I ask unanimous consent that this technical change be made, that the revised language of amendment 754 be printed in the RECORD at this point, and that the amendment as modified be printed and lie on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 754

At the end of the bill add a new section as follows:

"SEC. . No funds appropriated pursuant to this or any other Act may be expended after the date of enactment of this section for the purpose of sending to South Vietnam, Laos, or Cambodia, any person inducted into the Armed Forces of the United States under the Military Selective Service Act of 1967, or any subsequent Act providing for the conscription of persons into the Armed Forces, unless funds are specifically authorized to be expended for such purpose by law hereafter enacted. The preceding sentence shall not apply in the case of any person inducted into the Armed Forces of the United States under the Military Selective Service Act of 1967, or any subsequent Act providing for the conscription of persons into the Armed Forces, who (1) Volunteers for duty in South Vietnam, Laos, or Cambodia, or (2) has voluntarily extended his military service obligation after having been inducted into the Armed Forces."

Mr. DOLE. Mr. President, first of all, because the proponents of the amendment have used up most of their time, I should like to take some of the time allotted to me to ask questions either of the Senator from Oregon or the Senator from South Dakota with reference to the most recent version of the so-called end the war amendment.

First I would ask the question of either the Senator from South Dakota or the Senator from Oregon with regard to section 3 of the so-called end the war amendment on page 2 which reads:

(3) the provision of asylum for Vietnamese who might be physically endangered by withdrawal of American forces;

I am wondering whether either Senator might clarify just what this provision may mean, whether there is any estimate or notion where asylum may be, in Kansas, South Dakota, Oregon, Guam, or why the provision was inserted. I address that question to either Senator.

Mr. HATFIELD. First I should like to say, this is not a figure, and there is no figure I know of because, first of all, it does assume there may be conditions which none of us can project at this time or predict which will create the necessity for some who might not wish to stay in Vietnam after our withdrawal. I would point out, it does not have to be based on the fact that they fear the Communists in Vietnam, they may fear non-Communists or other fellow countrymen within Vietnam. We have seen evidence today of how much terror there is in Vietnam and how much suppression and oppression there is on the part of Thieu-Ky regime.

In discussing and debating over the number of years of our whole involvement in Vietnam, the question has always been raised about what would we do with those to whom we have made some sort of political commitment, whether known or unknown, and if that might mean they would personally or physically be in danger if they remained after we left. That was the only reason for putting this in the amendment. I do not think it is anything terribly unique or extraordinary. It is just recognizing the possibility of a call for asylum by certain individuals with a change of political government or policy in the regime within South Vietnam.

Mr. DOLE. I might then ask, if there has been any thought given, because in this amendment was that carefully considered—it has been, because it has been changed four or five times, and each time it has brought forth other changes—but certainly some thought was given as to where the asylum might be, whether it would be somewhere in Southeast Asia. Has there been any thought given as to where we would provide this asylum in the event South Vietnamese were physically endangered?

Mr. HATFIELD. As the Senator from Kansas knows, there have been those already in South Vietnam who have sought asylum even before the Thieu-Ky regime came in. Many went to France. Madame Ngu, who became famous in South Vietnam, went to Italy. I do not know where these people might want to go. I think that we would have to wait and see, if this amendment prevails and these events take place. The point is, we have made provision for all contingencies, trying again to indicate that we are concerned about all the people in South Vietnam, not just our own American troops. That was the reason for providing this particular section in the amendment.

Mr. DOLE. I might also say there are about 1 million North Vietnamese who fled to South Vietnam.

Mr. HATFIELD. Let me go back to that. I suppose at one of the notable points in history, when there was an expansion of the population—and let us make the record clear on this—there were a number of people who came into South Vietnam, because it had been carefully documented, expected, and anticipated that an election would be held in 1956. So that many of those who went to South Vietnam did not go on the basis of any fear for their lives but for the purpose of voting for reunification and voting for the Ho Chi Minh regime of the North. I think it should be further pointed out historically that Catholic support of the regime in South Vietnam was an ingathering, to a great extent because of the cultural and religious affinity they had for one another.

Mr. DOLE. Were there not some, if I recall, who fled because of fear of terror?

Mr. HATFIELD. Yes. If the Senator will yield further on that point of terror, there was also terror within South Vietnam, let us not forget, under the Diem regime. One reason why that regime was challenged, not just by the Communists alone but by Communists and non-Communists, was due to the repressive measures which were taken by the Diem regime against its own people. So if we are going to talk about regimes of terror, it has been characteristic of both North and South.

Mr. DOLE. The Senator is not suggesting that there is more terror in South Vietnam than there is in the North?

Mr. HATFIELD. I do not believe that terror can be described that way. Terror is a matter of intensity wherever it exists.

Mr. DOLE. I call the attention of the Senator to the fact that when the elections were held in South Vietnam yesterday for 30 Senators there were acts of terrorism throughout South Vietnam, including the murder and slaughter of some 15 children in an orphanage. But let me come back to this question of asylum. With the adoption of the amendment, would that asylum be at the discretion of the President to determine, or would Congress determine it? Are we going to give the President that power?

Mr. HATFIELD. I think there are already well established precedents on aslyum in this country. When asked for by individuals seeking asylum, their requests are handled in the executive branch by the State Department. There is adequate historical and traditional precedent for such things. There is no attempt here to change the precedent. I am sure the precedent is already well established.

Mr. DOLE. Well, we seem to be trying to change this precedent, of how to end the war. I thought there was a new precedent for it in the pending amendment.

Mr. HATFIELD. I think the very opposite is true. The precedent we have is for trying to reestablish the role of Congress in this whole war in Vietnam. It has broken a precedent. Our action here

is to try to reestablish the historic precedent.

Mr. DOLE. There is no precedent at all. Despite all the wars we have been engaged in in this country, the fact is that we have here—at least I can find no precedent—a precedent for cutting off funds. That would be a precedent, would it not?

Would the Senator comment on how our prisoners of war would ever be released? I do not understand how we can strengthen the hand of any President or any Congress by adopting this amendment to end the war, with reference to our prisoners of war, because once we have withdrawn that leverage, what strength would we have, how could we negotiate for the release of our prisoners of war when we have no strength, no viability in the country of South Vietnam? How would that be determined? Would that be determined by the President or would it be determined by the Senate?

The PRESIDING OFFICER (Mr. BENNETT). The time of the Senator has expired.

Mr. DOLE. Mr. President, I yield myself 10 additional minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 10 additional minutes.

Mr. HATFIELD. I should like to respond to that statement, but I think my colleague from South Dakota would prefer to comment on it. Let me say to the Senator from Kansas that I enjoy this kind of repartee or colloquy to bring out the points he wanted to question us on, but I feel that since I am only one of the coauthors of the amendment, I should yield part of the opportunity to respond to the Senator from Kansas in this way, to my colleague from South Dakota.

Mr. McGOVERN. The Senator from Kansas mentioned the question of asylum. He specifically made reference to the possibility of refugees from Vietnam. Under the provisions of the amendment, and having mentioned possibly South Dakota as a location, let me say that as one resident of South Dakota, if it would bring about an earlier end to the war in Vietnam, I think I could say with complete certainty for the people of my State, that we would much prefer to have a few Vietnamese coming to South Dakota to stop the flow of young South Dakotans going to the jungles of Vietnam, if that is the choice. There is no question in my mind, about it, I believe it would be resolved sooner.

Mr. DOLE. The Senator says a few. There are 17 million people in South Vietnam. Of course, I do not know how many would be physically endangered but certainly more than a few. I share the view expressed by the Senator from South Dakota, as it is certainly nothing new for our country to provide asylum for refugees. We did it in the Cuban crisis and would do it again if necessary.

That is not the point the Senator from Kansas makes. The point is that apparently the sponsors of the amendment recognize that many who remain in South Vietnam, if there is a precipitate withdrawal because of some fixed date by the sponsors, will be physically endangered.

It is my hope that under President Nixon's plan, which is working and has exceeded the expectations of most everyone, there will be no one physically endangered when the last American leaves South Vietnam.

Mr. McGOVERN. Mr. President, on that point, is the Senator aware that a public opinion survey was conducted in South Vietnam in which the South Vietnamese people who responded indicated that 65 percent would like to see us withdraw now; 30 percent said they did not have any opinion on it; and only 5 percent expressed any desire to have our forces stay.

I have not seen any other surveys. I wonder if that does not indicate that the Senator's fear of a blood bath in the event of our withdrawal is somewhat stronger than the same anxiety that might exist on the part of the people of South Vietnam.

I think that what they fear are the enormous destructive blows being struck on that country as a result of the massive firepower of our own weapons that have been introduced in that war.

I do not find it hard to understand a public opinion poll on the part of the rank and file of the people in South Vietnam when they say, in effect, that they would like to have us go home.

Mr. DOLE. Mr. President, I find it hard to find that public opinion poll. The Senator referred to it on a national network program and has referred to it again on the Senate floor.

It would be most interesting if we might have a copy of it, if such a poll exists. The Senator from Kansas has never been able to find it.

Mr. McGOVERN. Mr. President, the results of the poll were released by an ABC correspondent in Saigon. It was reported after that that it had been repressed by the American command in Saigon.

The results of the poll were published by the Senator from Ohio (Mr. YOUNG) in the CONGRESSIONAL RECORD 2 weeks ago. There has been no denial or no refutation from anyone in the State Department or in the Pentagon.

I have no reason to doubt it. The poll has been suppressed, and that is why it has been difficult to get a copy of the poll.

Mr. DOLE. Mr. President, I have discussed this particular poll with the Defense Department officials. They have no knowledge of it.

Getting on to the more important question, it appears to me, as I have said before, that what the sponsors have done in an effort to obtain more votes for their amendment is to redraft the amendment on five different occasions.

It appears now that in effect the sponsors are embracing the Nixon program of Vietnamization. But they are saying, in effect, "While we are for Vietnamization, while we endorse the principles, we want a piece of the action. Therefore, all that has to be done is to put a date on the withdrawal. President Nixon has done everything else. The Vietnamization program is working. But he has not announced his timetable. He has not shown his hand to the enemy. Therefore, we in Congress want to write in a date."

I find it difficult to find any vast difference between what the principal sponsors of the amendment have proposed in the so-called end-the-war amendment and what President Nixon was doing.

Would the Senator from Oregon care to comment on that?

Mr. HATFIELD. Mr. President, I think the Senator from Kansas has already posed two previous questions that have not been answered in his colloquy. I would like to go back to them first.

The Senator from Kansas indicated first what would happen to those who might have to seek asylum or who would have to leave Saigon. Let me point out that we have had previous occasions when people have had to leave Vietnam because of a turnover or change of administration or regime.

I do not have to cite the fact that Madam Ngu said that she felt it was vital for the safety of her life that she leave Vietnam after the fall of Diem.

This is not a change from a non-Communist to a Communist regime. General Big Minh had to leave Vietnam. He felt it was wise for the safety of his life that he leave.

We have heard examples of turnovers of regime when people have had to leave Vietnam and seek asylum elsewhere.

The Senator brought up the matter of what would happen to our prisoners of war. I do not know of anyone who has spoken on the floor more frequently about the prisoner-of-war situation than I have. I do not know of any other Senator who is more deeply concerned about the matter of our men who have been so heinously treated.

Mr. DOLE. My point is, should we leave that up to the Senate or to the President?

Mr. HATFIELD. In the present situation we have not been successful in getting a release of the prisoners of war. We have not been able to take up the issue.

Consequently, it seems to me that if we set a time specificly for our withdrawal and declare that all American troops will be out on that particular date, we set the stage for meaningful negotiation of the question of American prisoners of war that no longer have to be held as hostages and levers and prods to try to get negotiations underway. I think we would have a better chance to get negotiations started then for the release of prisoners of war than we have experienced up to this point.

Mr. DOLE. Mr. President, would the Senator from Oregon comment on how this amendment differs in any respect from the Vietnamization program, with the exception of setting a fixed date.

Mr. HATFIELD. Mr. President, let me say that I cannot speak for all my colleagues who are cosponsors. The Senator from Kansas knows very well that when we were shoulder to shoulder last week on the draft amendment, there are different emphasis and different points that each cosponsor might wish to give as the reason for his support of the measure.

I have been publicly on record and have stated and restated that up to the point of Cambodia I supported President Nixon's Vietnamization program. There is no mystery or cloud of misunderstanding on that matter. I stood solemnly for President Nixon's Vietnamization policy up to the point of Cambodia.

I believe this amendment gives the Vietnamization program its best chance of success. This is not a confrontation. If the Senator will go back to the amendment in its original form, he will note that the amendment was introduced the day the invasion of Cambodia took place. That is the reason we had to modify the language, in view of the events that were unfolding. The Senator from South Dakota and I introduced the amendment the day before Cambodia.

On that occasion, it was our hope that the President would support the amendment. There was no aim to have a confrontation, to put us in juxtaposition with the President, but rather to undergird the President and assist him in shouldering this responsibility.

In March 1968, when President Johnson gave his famous speech about not being a candidate, I think that most of the people accepted the fact that this was Mr. Johnson's war and that, therefore, it would be impossible for him to seek renomination.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. Mr. President, I ask unanimous consent to continue for 5 additional minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 additional minutes.

Mr. DOLE. Mr. President, I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, on the occasion when the amendment was introduced, Mr. Larry O'Brien, the chairman of the Democratic Party, expressed in a public forum an indication of the war becoming Mr. Nixon's war.

The Senator from Kansas realizes that we are both standing on this side of the political aisle. I do not think the war should be known as Mr. Johnson's war or Mr. Nixon's war. I do not think we should make a political point of the war. I do not think it should be connected to a certain policy.

This amendment can make the war become, in effect, an American people's war rather than a certain President's war. I think the Senator from Kansas would agree that the burden of this war should not be borne on the shoulders of one man, having him take full responsibility for every life lost in Vietnam or the future course of Vietnam operations.

This asks the President to take his own course for 16 months and then, in a transitional period, let Congress stand up and quit "Monday morning quarterbacking" the President and assume its proper role.

This is not a challenge to the President. This is a challenge to our colleagues to stand up and assume the responsibility the Constitution has placed on our shoulders.

Mr. DOLE. I thank the Senator from Oregon. As I said at the outset, in my opinion debate is what we need on this amendment. We need high-level debate to discuss the provisions and determine in depth the meaning of the provisions. If there are differences of opinion, perhaps they can be resolved; but the amendment to end the war, the present version, would extend the war for another 18 months.

I would also indicate, as earlier, that in my opinion President Nixon has made great progress and is on the way to complete disengagement. Both the Secretary of Defense and the Secretary of State have indicated that by June 1971 all combat troops will be withdrawn from South Vietnam, and to me this indicates additional progress. But, in any event, if that goal is not reached by next May 1, 80 percent of our combat forces will be withdrawn from Vietnam.

When President Nixon took the oath of office on January 20, 1969, this war was an actuality, it was a fact, it was on his doorstep. He did not ask for any of the appropriations which had financed escalation; he did not ask for the war; he was not a party beginning or expanding to it. Yet the war has continued.

Had there been a continued escalation of the war, perhaps this effort by Congress to fix a timetable might have more validity. But I have difficulty understanding why we should force the President or why we should expect the President, whatever his name may be—Nixon, Johnson, Kennedy, or Eisenhower—or whoever might succeed President Nixon, to say in advance that unless he comes back to Congress we will quit in South Vietnam, or any other country, or in any other conflict.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. HATFIELD. I think one of the most important reasons why we should ask him to do that, and I say this as a fellow Republican, is that since the days of Herbert Hoover—and I have been to many conventions where this has been stated—it is the Democrats who have usurped the power and centralized the power and it was up to Republicans to be elected to reverse that trend established under the New Deal. This is the opportune time for Republicans who express this concern that has been expressed over centralization of power in one man. I am speaking of the constitutional questions, especially article I, section 8 of the Constitution.

Mr. DOLE. I might point out that the section of article I, section 8, of the Constitution which the Senator mentions refers only to armies and has no reference to the Navy. The Navy is mentioned separately and without a 2-year limit on appropriations. But in any event this is the first time that Congress—perhaps the second time—has attempted to cut off funds. It occurs to me, as the Senator from Mississippi pointed out earlier, that there must be some one American, the President, to speak for the people.

As the Senator from Oregon knows, those who drafted the Constitution at one time thought of changing in the Legislative Article the word "declare" to "make" but decided the word should be "declare"—because only one person, the President, should determine how a war should be expanded and contracted.

We should not defuse the control and authority, particularly at a time when President Nixon is on a path to peace. Perhaps the withdrawal is not as rapid as everyone would like, but he is engaged in a program to bring about peace.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

THE CASE AGAINST THE M'GOVERN-HATFIELD AMENDMENT

Mr. DOLE. Mr. President, Winston Churchill once said:

> Patience and perseverence must never be grudged when the peace of the world is at stake.

These words have particular relevance to this time in our Nations' history and to the debate which the Senate is conducting today.

Never before in nearly two centuries of our country's life has national patience and perseverence been tried more severely than by the conflict in Vietnam. But at the same time, never has the future of the cause of peace been more gravely jeopardized.

THE NEW ISOLATIONISTS

A new kind of isolationism has risen in our country in the last few years, perhaps as an outgrowth of war weariness, perhaps because some Americans have become so deeply immersed in the internal problems of our country, and perhaps because some have seen a political opportunity in the understandable deside of our people tc achieve an end to this war and the beginning of peace.

This new isolationism is taking a number of directions, none of them in the best interests of our country if we accept the premise that a nation's domestic, internal vitality is related to and fundamentally dependent upon that nation's strength and vigor in the international arena.

This being so, we must strike the balance between spending for internal needs and spending for defense to insure that the United States can survive as a free nation in a world where all nations are not our friends.

This proposition is being largely overlooked or ignored by some segments of our population including, in my opinion, some in the Congress of the United States.

One of the forms this neoisolationism has taken has been a growing unwillingness by some to bear with President Nixon while he brings the war in South Vietnam to a just and honorable conclusion—a conclusion which will—because it must—maintain America's credibility with all nations and strengthen the American people's faith in themselves.

This means ending the war in such a way that South Vietnam is in a position to defend itself, in such a way that leaves our allies sure of our commitments to them, and in such a way that leaves our present and potential enemies equally

sure that we will keep those commitments.

As I said, there are those who are not willing to wait for this kind of peace. They seek an "instant peace" they apparently think can be obtained by phrasemaking and legislative fiat.

The current vehicle for accomplishing their aims is known by three names. The press calls it the McGovern-Hatfield amendment. The principal sponsors and their supporters call it the "amendment to end the war." Those of us who support the President and who believe in an honorable peace call it the "amendment to lose the peace."

I do not question the motives of the amendment's supporters, which include many who are rumored to have presidential aspirations.

But, I do question their judgment. They tell us—time and again they tell us—that they do not seek to retreat or surrender, nor do they not seek to thwart the President, because they oppose him. They say they only want to share the the burden and the responsibility with him. But what they would share or more aptly, usurp, is the President's sole responsibility as Commander in Chief. They would relegate to themselves the authority to order unilateral and precipitate withdrawal. They would legislate themselves the power to impose a one-sided deadline. But they cannot—nor do they wish to—assume the responsibility for these actions. The President alone bears that responsibility, the Constitution assigns it to him, and no legislative pronouncement, Madison Avenue commercial slogan, or emotional television appeal can remove or diminish that responsibility.

NO FALSE PEACE

No one disputes the proposition that peace needs to be restored in Southeast Asia. Nor should anyone quarrel with the proposition that peace must be durable and just. Peace, after all, is much more than an absence of war. It also means a system wherein the rights of every Nation are respected—such fundamental rights as national independence, self-determination, security, and freedom from intimidation.

We must be careful, therefore, that in our understandable desire to end hostilities in Southeast Asia we do not leap into a false peace, a peace that is precarious, impractical, or unjust. There are essential building blocks to be put in place before we can sit back and say that the structure of peace in Southeast Asia is solid enough to withstand the battering of subsequent events.

The element of timing becomes vital at this juncture. This is not the time to establish any arbitrary date or indulge in any other action which would narrow or restrict our efforts to end the war honorably and build peace successfully.

We already are well along the road to ending our combat role in Vietnam, as the President has promised. The number of U.S. combat troops in Vietnam has dropped by 120,000—from 550,000 when the President took office to 430,000 by the middle of this year. An additional 150,000 of our combat troops are scheduled to come home by May 1971. This is nearly one-half the number of troops that were in Vietnam when he took office. By that time, according to the President's senior military advisers, the Government of Vietnam forces will be able to handle ground combat operations.

Reversing the trend of American military engagement, and reducing American casualties, is only one facet of the Vietnamization program.

Another critical factor is the ability of the South Vietnamese to assume for themselves the task of their own defense and nation-building. They have done much in this regard, even in the midst of war. But they need time and assistance to broaden and deepen successes already achieved.

An equally critical factor is Hanoi's intentions. Let us acknowledge that the enemy is tough and resilient, and should not be underestimated. We can hope that the level of combat can be further reduced; but at the same time we must be prepared for new enemy offensives. To adopt any other stance would be foolhardy. It would jeopardize all the progress we have made in the past 19 months. The President was right and deserves our full support when he said on November 3 last year, and several times since, that if he concludes that increased enemy action endangers our remaining forces in Vietnam, he will not hesitate to take strong and effective measures to protect the members of our Armed Forces. He could do no less as Commander in Chief.

Neither should the element of timing be overlooked in regard to negotiating a settlement of the war in Indochina. We have demonstrated again and again a willingness to negotiate. But that stipulated willingness could be undercut if Hanoi were to conclude that it can wait us out. We can and should continue our search for genuine negotiation. Simultaneously, we must continue to demonstrate our resolve here in the United States to gain a just and lasting peace; and we must continue to support the common defense efforts of threatened nations of Asia.

THE UNITED STATES AS AN ALLY

There is one particular aspect of the issues raised by the McGovern-Hatfield amendment which in my judgment needs continued emphasis. It involves the role our country is to assume in world affairs as we face the challenges and opportunities of the 1970's.

Our ultimate goal is a world at peace. Sadly, a just and durable peace around the globe is not yet in sight. It is incumbent upon us, therefore, to develop creative policies and pursue feasible actions which not only minimize threats to our own security but create confidence among our allies as well as move us down a realistic road to peace.

The President outlined a blueprint to do just that in his report to the Congress last February on "U.S. foreign policy for the 1970's." In that report, he laid special stress on the fact that we are now dealing with a world of stronger allies. The central thesis which springs from the fact is that the United States no longer will have to bear the great burdens we undertook in defense of the free world 25 years ago. Other nations now have an ability and responsibility to deal with local disputes.

The time has not yet arrived, however, when all of our friends in Asia can stand alone. We still must help in varying degrees where it makes a real difference, and where it is considered in our own interest. We cannot live in isolation. We are a power in the Pacific and, therefore, we remain involved in the Pacific.

A key element in current strategy is partnership. Responsibilities in Asia once borne by the United States at such great cost can now be shared. The United States has embarked on a policy of encouraging Asian initiative, and the Vice President carefully articulated this policy to major Asian leaders last week. But we and they are only at the beginning stage of that policy. It is as unwise as it is untimely if we now start to draw lines which could constrict Asian initiative and undermine the Nixon doctrine for U.S. policy.

The McGovern-Hatfield amendment would be construed as constrictive by our allies throughout the world. Although it deals only with Indochina, it would be read elsewhere as a declaration that the United States was adopting a "sink or swim" approach where the interests of security and peace are concerned.

This is hardly the essence of the partnership role we have proclaimed. We have said we stand ready to meet our commitments. Yet this amendment, if passed, would mean our friends really could not be sure of our staying power. If we are going to rely on them to do more for themselves, they must be able to rely on us to do what we have said we would do. If their belief in our commitments is eroded, they may lose the essential incentive or will to handle their own self-defense. The stamina of our policies is at stake.

There should be no doubt that our stamina is being weighed by our opponents. This simply is not the time to specify by hour, day, week, or even year—as the McGovern-Hatfield amendment would—a limit to our involvement. Even with the most careful planning, there must be some latitude in making certain choices of action. The President needs latitude, not constrictions, as he tries to effectuate his strategy for peace.

A POTENTIAL BLOODBATH

A picture on the front page of today's Washington Post captioned "Death at the Orphanage" which is far more eloquent that the associated story on page 12, but I wish in particular to call it to the attention of the supporters of this amendment.

As we are all aware, one of the considerations the President has felt must be taken into account as he attempts to disengage the United States from South Vietnam is the fate of those who have actively resisted the Vietcong and the North Vietnamese.

Experts on Vietnam, including Douglas Pike and Stephen T. Hosmer, have foreseen the possibility of a wave to terrorism against the South Vietnamese when we leave, and if the North Vietnamese gain control, a bloodbath that could take over a million lives.

Even the supporters of McGovern-

Hatfield recognize this possibility by providing that the President can spend money for sanctuaries for those South Vietnamese who may be threatened.

However, the question arises: Who is to tell who the endangered South Vietnamese are or where they may be?

Terrorism, including murder and torture, is practiced as a political weapon by the North Vietnamese and Vietcong. One does not have to be an overt opponent to be a victim.

Since 1964, Vietcong and North Vietnamese terrorism has been responsible for about 50,000 kidnapings and more than 23,000 murders, not counting the great Tet bloodbath of 1968 where thousands were murdered in the city of Hue alone.

Mr. President, this brings me to today's story. I will insert it in the RECORD, but first let me read a paragraph or two:

Spokesmen said many of the enemy targets were populated regions that had lived in relative peace for several months. Forty-two civilians were reported killed and 120 wounded, some in attacks against rural voting centers.

Troops described by survivors as uniformed North Vietnamese rampaged through a Buddhist orphanage and hospital 22 miles southwest of Danang, hurling grenades and dynamite bombs. The 30-minute attack left 12 dead and 45 wounded.

I ask unanimous consent to have the article in full printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, August 31]

FIFTY-FIVE KILLED IN ATTACKS BY VIETCONG

In their sharpest coordinated attacks across South Vietnam in four months, North Vietnamese and Vietcong troops inflicted heavy casualties Sunday just before nationwide elections began.

Fifty-five South Vietnamese were killed and 140 wounded in more than 50 overnight attacks on towns, military installations and in scattered ground fighting, military communiques said.

The U.S. Command reported only seven attacks against U.S. units or positions, with light casualties.

Spokesmen said many of the enemy targets were populated regions that had lived in relative peace for several months. Forty-two civilians were reported killed and 120 wounded, some in attacks against rural voting centers.

Troops described by survivors as uniformed North Vietnamese rampaged through a Buddhist orphanage and hospital 22 miles southwest of Danang hurling grenades and dynamite bombs. The 30-minute attack left 12 dead and 45 wounded.

Informed sources said North Vietnamese and Vietcong forces might attempt to maintain the momentum of their attacks for several days to mark North Vietnam's national day Wednesday and the first anniversary Thursday of the death of President Ho Chi Minh.

Others thought the overnight attacks were geared only to the elections.

Mr. DOLE. It is obvious that these premeditated attacks were a part of official Communist policy. They are a part of a strategy of terror aimed not at defeating South Vietnam in military combat but at destroying South Vietnamese morale by killing, wounding, and pillaging. No matter that the victims are the sick, the wounded, the orphaned.

Visualize what could happen then, Mr. President, if the United States cuts and runs on December 31, 1971, or on February 29, 1972, before the South Vietnamese Army is trained well enough to protect the countryside.

Today's front page picture would be mild by comparison to any record of the North Vietnamese and Vietcong premeditated policies of murder and torture which will sweep through South Vietnam if we abandon our commitments, our principles, and our allies, as the sponsors of McGovern-Hatfield wish us to do.

CONCLUSION

One of Abraham Lincoln's remarks concerning the trying search for peace during the Civil War is compellingly appropriate to the issues before us today. He said:

A man watches his pear tree, impatient for the ripening of the fruit.

Let him attempt to force the progress, and he may spoil fruit and tree.

Let us not in our impatience for peace and an end to war heed a rash, popular, or expedient course which would spoil either the fruit of that peace which we seek or the tree of freedom at home or abroad.

EXHIBIT 1

[From the Washington Post, Aug. 28, 1970]

A NATIONAL POLICY TO END THE WAR

The Senate has an opportunity during the next few days to write a rational and responsible policy for ending the war in Vietnam. For many months the Senate has been itching to reverse its 1964 endorsement of a blank check to President Johnson to initiate and carry on that war. It adopted the Fulbright resolution designed to give Congress a voice in future national commitments, and a few weeks ago it attempted to forbid widening of the war to Cambodia through the Cooper-Church amendment, although the language got pretty muddy before the final action came and the House would have none of it. Now the Senate has a chance to go on record for an orderly and timely liquidation—an objective that is earnestly sought by an overwhelming majority of the American people.

This issue has been distorted in the past by the simplistic manner in which some senators sought to hasten the withdrawal from Vietnam. A scuttle-and-run policy was said to be the only alternative to a declaration of war. Widespread opposition to any action by Congress on the war was aroused by the argument that it could be, and should be, cut off by a snap of the congressional fingers.

As the issue is now being debated in the Senate, however, it assumes a very different posture. No longer is there any effort to say that American troops must be out of Vietnam within six months. In its present form (the text is presented, for the record, elsewhere on this page today) the amendment to the military procurement bill originally offered by Senators McGovern and Hatfield would now require the withdrawal of American armed forces by Dec. 31, 1971—leaving a liquidation period of 16 months. If any emergency should arise, the President would be authorized to extend this period by 60 days, and if that did not allow enough time for safe evacuation of Southeast Asia the President would so report to Congress within 10 days so that Congress could authorize a further extension.

Rigidity has thus given way to flexibility. As reshaped by the Foreign Relations Committee, this is quite a different proposition, which would have the great virtue of enacting a national policy for termination of the war without putting the President into a straitjacket. In effect Congress would enact the President's withdrawal formula as a sound national objective, without saying that it would have to be carried out in any and all circumstances. This achievement of firmness in the statement of a national policy, along with elbow room in actually carrying it out, is a tribute to the good judgment of all those who have contributed to it.

Up to now, the administration has remained in opposition to any congressional action in this sphere. In part this may be attributed to the sound objections raised against earlier versions of the McGovern-Hatfield amendment. No doubt it also reflects an automatic White House preference for a free hand. In this case, however, the White House as well as the country has an enormous interest in having the Congress on record for termination of the war in an orderly and responsible fashion. If the outcome should turn sour—by no means a remote possibility—it would be much better to have the President and Congress jointly responsible.

In our view, the White House could well regard this proposal before the Senate as a fortuitous opportunity to put Congress on record in favor of the Nixon withdrawal policy or something close to it. The requirement that our Vietnam troop-level be reduced to 280,000 men by next April 30 and that the remaining forces be brought home by the end of next year is specifically recognized in the language of the amendment as a reflection of the President's own statements. Unless the President wishes to deviate from this withdrawal policy, there are compelling reasons why he should welcome a congressional reaffirmation of it.

The President has, to be sure, opposed past efforts to set a date for the windup of the Vietnamese affair. He has feared that the fixing of a date would take pressure off the North Vietnamese to negotiate an end of the war. But if Congress fixes a date which the President could postpone or even eliminate with the consent of Congress, when the time came, the North Vietnamese would, as the Foreign Relations staff memorandum notes, have no assurance that mere stalling would redound to their advantage.

In any event, it seems to us that the advantages of having a congressional withdrawal policy on the books greatly outweigh any disadvantages that might be encountered at the negotiating table. Such legislation would put the President under pressure to carry out the evacuation at the earliest feasible date. It would put our military leaders—and our diplomats, as well—on notice that the national policy is irreversible. Saigon also would have a clearer understanding of what the score is and would be able to adjust its policies accordingly. So long as there is hope that the President may change his mind under pressure the Thieu government is more likely to avoid the hard decisions that are essential to a future for South Vietnam without American manpower for its defense.

Behind all the arguments for and against this amendment is the even more vital fact that the Senate is making a bid to get back into the policymaking arena in regard to war and peace. We think the President should welcome that effort as a bedrock imperative of American democracy. If the present amendment is not satisfactory to the administration in all particulars, amendments can always be suggested. But it would be tragically shortsighted for the administration to take an arbitrary stand against congressional action designed to underscore and give congressional support for the President's own policy. Orderly termination of the war as soon as feasible ought to be the joint policy of the two political branches, and it is doubt-

ful that there will be a better opportunity than the present to make it so.

[From the St. Louis Post Dispatch, Aug. 30, 1970]

TWO CRITICAL ISSUES OF THE WAR

Two critical issues are at stake in this week's Senate vote on the McGovern-Hatfield amendment to end the war. One is the question, not whether some troops shall be withdrawn from Vietnam, but whether a quarter of a million young Americans shall stay there indefinitely after 1971. The second question is whether the decision on this matter shall be made by the President alone, or shall be shared by Congress, as the Constitution intended when it gave Congress the exclusive power to declare war.

On both counts, we think the McGovern-Hatfield amendment should be adopted. Vice President Agnew has sought to smear all supporters of the amendment as cowards and isolationists who seek American humiliation and defeat in SE Asia. The fact is that the kind of specific timetable of withdrawal which the amendment contemplates has been proposed behind closed doors by high officials of the Administration itself. They urged it, not because they wish to "lose the war" but because they felt a definite schedule of troop withdrawals would compel Saigon to accept a reasonable political settlement.

This judgment, shared by McGovern-Hatfield backers, may be right or wrong, but those who hold it are entitled to be heard as honest citizens, no less brave or patriotic because they differ with official policy.

When not denouncing McGovern-Hatfield as an instrument of surrender, the Administration tries to convince the people that its own objectives are the same as the amendment's to withdraw American troops, to end the war. What many Americans do not realize is that while Mr. Nixon promises to bring home 150,000 men by next spring, his policy calls for sending some 250,000 other men out to Vietnam during this period, and maintaining that troop level perhaps for years to come.

Thus it is true that Mr. Nixon is committed to reducing our force level sharply from the 540,000 reached under Lyndon Johnson. But he has never committed himself to reduce it below 250,000 men, or roughly half. This is what the argument is about. Even if the President's rate of withdrawals is considered satisfactory, the question remains what happens after next spring when the garrison has been cut to about 250,000?

It is strange and in a way incredible that some Americans, and some members of Congress, should be willing to leave the answer entirely to one man's discretion. Most of us agree now that, whatever our differences may be on how to get out of Vietnam, it was a tragic mistake to become so deeply involved there in the first place. In doing so we permitted the crucial decisions to be made by President Johnson and his military advisors without the effective participation of Congress and the people, as the Constitution contemplated. Having thus permitted one man to decide whether 40,000 Americans should die and thousands more be wounded, is it not time to redress the balance so that Congress will at least help decide how many other Americans shall die and be wounded in the years ahead?

All of history argues that if by the latter part of 1971 there is good reason to keep American troops in Vietnam on the end of the year, President Nixon can persuade Congress to authorize it. Even if he were to ask for a declaration of war, there is little question that he would obtain it. The question is whether he shall be required to consult Congress, to justify the course he chooses. McGovern-Hatfield would make Congress a full partner in future decisions on Indochina, and that is as it should be.

However the McGovern-Hatfield goes, it will be an important indicator of Senatorial attitudes toward the war, and toward the role of Congress in the waging of war. We expect Sens. Symington and Eagleton to declare themselves unequivocally on those questions, and we think Attorney General John C. Danforth, who seeks to replace Sen. Symington should do so as well.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Florida.

Mr. HOLLAND. Mr. President, no Member of this body nor any other knowing citizen could for a moment challenge either the strong convictions of the authors of the pending amendment or their proven patriotism in battle and under the most difficult circumstances of battle.

The Senator from Florida, after making that clear, also wants to make it clear that he feels that the approach used in the pending amendment by its authors is, in his judgment, most unwise, unfair to the President, unfair to the Nation, and most unfair to the several hundred thousand Americans whose lives are directly affected by what goes on in Vietnam because of their presence there.

Mr. President, I shall not belabor the question of the effect of the adoption of this amendment upon the Paris peace talks, which have led us to no satisfactory conclusion as yet, and whose promise is not very good at this moment. I shall dwell instead upon the fact that the very amendments which have been offered by the sponsors of the pending amendment—and this is the fifth version of the proposal—show how completely changing the picture is, and how much it has changed even in the opinion of the sponsors of the amendment since the time when they first offered their original bill last fall.

The Senator from Kansas stated there were six versions of the approach to this question. The first version, however, was offered by the Senator from New York (Mr. GOODELL), the other five—four of which have been offered and one debated but not offered—by the sponsors of the present amendment, the Senator from South Dakota and the Senator from Oregon.

It will appear from even a casual reading of these five versions of their approach to the problem how greatly the judgment of the sponsors of the amendment has changed during the period while we have been debating this subject. I shall not go into the matter in such detail as to quote provisions from these five differing approaches, but, beginning with the content of Senate Concurrent Resolution 39, offered last fall, and going through all of the other four versions of the proposal, it would appear that not only have the views of the sponsors——

The PRESIDING OFFICER. The 5 minutes of the Senator from Florida have expired.

Mr. STENNIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 56 minutes.

Mr. STENNIS. I yield the Senator 5 minutes.

Mr. HOLLAND. Not only have the views of the sponsors of the amendment as to the time which should be specified as the date by which this war should be ended changed materially from time to time, but also their opinions have changed to other conditions which they felt were fair, and I am sure they felt they were fair both toward the Chief Executive, toward our fighting men, and toward the country. Those conditions also have changed, as shown by the content of the several provisions which the Senators have offered.

I repeat, I think the sponsors have offered them with deep conviction. The point I am making is that we are dealing with a very serious matter, in which conditions are changed from day to day, from week to week, and from month to month; and nowhere is that better illustrated than by reading the five versions of the approach adopted by the sponsors of this amendment.

Therefore, Mr. President, it seems to me that it should be very clear that it is unwise for us now to try to pick a date to end this war, that it is unwise for us now to handicap our negotiators in Paris, or the President, by such an adoption; and that it is unwise for us to give what looks like a period of grace, as provided by the last version of the amendment, of 60 days to the President, in the event he is not successful in bringing the war to an end by the end of next year, December 31, 1971, and in the event he has not been able by that time to get all of our personnel out of South Vietnam.

Mr. President, I think that the mere reading of those five provisions, all coming from the highly conscientious minds of the sponsors of this proposal, shows how changing the proposal is, how changing the opinions of these distinguished Senators have been during this relatively short period of time, and how clear it is that even in their opinion the time for ending the war and the conditions in connection therewith have greatly changed.

Mr. McGOVERN. Mr. President, will the Senator yield at that point?

Mr. HOLLAND. I shall be glad to yield in just a moment if I have time, but I want to finish this thought.

It seems to me that it is very clear that it is unwise, unsound, and unsafe to try, at one time—and these sponsors have tried at five different times to state their conscientious views as to what the facts existing at that time required—to embody any inflexible condition at any fixed time, and that means at this time as well as at any of the preceding times when the Senators drew amendments which they thought would deal effectively with this matter.

Mr. President, with that thought, I am glad to yield to the Senator from South Dakota, assuming that I have the time to yield.

Mr. McGOVERN. Mr. President, I merely wanted to call the Senator's attention to the fact, since he has made

considerable point of the changes that have been made in the amendment since it was first introduced, that the fundamental change is in the date for withdrawal, and the basic reason for setting back the time is that a number of months have passed since the amendment was introduced.

I do not know what the fifth version is that the Senator is talking about. There have actually been four versions of the amendment, the first having been introduced on April 30, the day before the Cambodian invasion.

At that time, we had thought that possibly a vote could occur in 30 days, and we set the withdrawal deadline a little over a year hence, June 30, 1971. But with the passage of the spring and the summer months, and with September 1 coming upon us tomorrow, it seemed prudent, in order to meet our original purpose, which was a withdrawal deadline about 1 year in the future, that we move that deadline back to December 1971.

The essential purpose of the amendment, which is to set a definite, announced withdrawal date at a reasonable time approximately a year in the future has never changed. I wanted to make that point, rather than to leave the impression that there has been a radical change in the purposes and goals of the sponsors of the amendment. As far as I am concerned, there has been very little change in our essential purpose.

We have added one other matter that I think is significant, and that is the 60-day grace period in which the President could extend the deadline without any further consultation with Congress. In the original version, he would have had to come back to Congress even for a 60-day extension.

Mr. HOLLAND. And the Senator has added also another additional condition that I think should be called to his attention. That is the one that no money may be spent on the maintenance of our troops when more than 280,000 remain there, should they remain there after April 30, 1971.

So there are two removal dates fixed now, instead of the one set by the earlier version.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McGOVERN. I thank the Senator.

Mr. HOLLAND. Mr. President, if I may have 1 more minute——

Mr. STENNIS. I am glad to yield the Senator 1 additional minute.

Mr. HOLLAND. I thank the Senator from South Dakota for his comments. I think all Senators, including the sponsors of the amendment, should realize that if there is one person in the United States who is most eager to bring this war to an end and bring our men back, it would be the President of the United States because he had a commitment looking to that end—without attempting to quote the words—in his race; because, being a human being, he would like to succeed; because, being a human being, he would like to be nominated and, if possible, elected for a second term. We all know that is his natural ambition. And he knows what the continuation of the Vietnam war did to his predecessor.

It seems to me just as clear as day itself that if we want to trust this matter to a man who not only has all information down to the minute, at any fixed minute, but also to a man who has probably most at stake personally in the bringing of this war to an end and bringing of our troops back, we should leave it to the President of the United States. The Senator from Florida is willing to do just that.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. STENNIS. I yield 2 minutes to the Senator from West Virginia.

ORDER FOR ADJOURNMENT UNTIL 8 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I have been asked by the majority leader to revise the time for the convening of the Senate on tomorrow morning. Therefore, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, immediately following the prayer and the disposition of the reading of the Journal tomorrow morning, the Executive Calendar and unobjected-to items on the legislative calendar be called—not necsssarily in that order—following which the able Senator from Iowa (Mr. HUGHES) be recognized for not to exceed 10 minutes; that at the conclusion of the remarks by the Senator from Iowa (Mr. HUGHES), the able Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes and that, following the special orders for recognition of Senators, there be a period for the transaction of routine morning business, with statements made therein by Senators limited to 3 minutes; that the period for the transaction of routine morning business end at 9 a.m.; that at 9 a.m. the amendment offered by the able Senator from South Dakota (Mr. McGOVERN), amendment No. 862, be laid before the Senate and made the pending business.

Mr. STENNIS. Mr. President, reserving the right to object—and I do not expect to object—I believe the Senator made a request regarding tomorrow morning's early session.

Mr. BYRD of West Virginia. Yes.

Mr. STENNIS. That leaves the situation as it was with reference to the end the war amendment, with debate on it from 9 a.m. to 10 a.m.?

Mr. BYRD of West Virginia. That is correct. The order on scheduled amendments would be unchanged.

Mr. STENNIS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The Senate continued with the consideration of the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, if the Senator from South Dakota is willing, we might discuss some of the additional provisions of the amendment and some of the shortcomings the Senator from Kansas feels are contained in the amendment.

It would be helpful to the Senator from Kansas, and perhaps the entire Senate, if the Senator from South Dakota would clarify and expand upon section 4, on page 2, which reads:

> To provide assistance to the Republic of Vietnam consistent with the foregoing objectives.

Would the Senator comment on that provision?

Mr. McGOVERN. The purpose of that provision in the amendment is to make clear that nothing in this amendment should prevent Congress, if it so decides, from offering assistance to the government and to the people of South Vietnam.

Mr. DOLE. Could that be extended beyond December 31, 1971?

Mr. McGOVERN. Yes. If it is covered by congressional action, it could be. It is to make clear that, while the amendment terminates the military operations that involves American personnel either on the ground or in the air, nothing in this amendment would preclude any action by Congress that it wished to take with regard to the granting of assistance—military, economic, or otherwise—to the people of South Vietnam or to other countries in Indochina.

Mr. DOLE. There is another question. With reference to the unnumbered proviso on page 2 which states:

> That if the President, while giving effect to the foregoing paragraphs of this section, finds in meeting the termination date that members of the American Armed Forces are exposed to unanticipated clear and present danger.

It would be helpful, again, if we could clarify or at least elaborate on "clear and present danger." It means one thing, from a legal standpoint, and perhaps has another interpretation from a military standpoint.

Mr. McGOVERN. It is designed to give the President, as Commander in Chief, the leeway he needs to meet an emergency situation. We would anticipate and take very seriously the December 31 withdrawal deadline. But some Members of the Senate felt that a situation might

develop in which the President would not have time to come to Congress and ask for additional authority to meet a crisis—perhaps an attack on our troops or some other contingency that we could not foresee—and that, therefore, a grace period was needed, during which the time the President could move without any further consultation with Congress.

It further provides, though, that if he uses that option to extend the time by 60 days, he would have to come to Congress if he wanted any additional time and present the case for a new withdrawal deadline within 10 days after exercising the option for a grace period.

But for 60 days, all that is required is a finding by the President. He would interpret the standard himself.

Mr. DOLE. I believe the amendment is clear, but, the amendment does require unilateral withdrawal. Is that correct? No reciprocity is required by the North Vietnamese.

Mr. McGOVERN. That is correct. It puts the complete control of the withdrawal timetable within the hands of the U.S. Government, and it has no reference at all to any withdrawal timetable by Hanoi or by any other forces.

Mr. DOLE. Finally, the Senator from South Dakota, again in accordance with the amendment, would be opposed to any residual support force remaining beyond December 31, 1971, or February 29, 1972, or some additional time determined by Congress, whether it be logistics or construction or communications, airpower, or military or any other residual support force.

Mr. McGOVERN. That is correct. The amendment bars any kind of American military forces—logistical, supporting, or any other kind.

Mr. DOLE. Another question: Would the amendment have any effect on the troops now stationed in Korea and the troops now stationed in Thailand?

Mr. McGOVERN. No; it would not. It relates only to American forces in what was once referred to as Indochina. That would be the two Vietnams—North and South Vietnam—Cambodia, and Laos.

Mr. DOLE. Would it be fair to say that, perhaps, in addition to the basic question of who makes the determination, the President or the Congress, another issues involved is the pace of withdrawal. The Senator from South Dakota and the Senator from Oregon, as I understand it, feel that it should be a more rapid pace.

Mr. McGOVERN. Yes. It would be more rapid that that schedule. It would be one that would have to be completed by the end of 1971 unless the President exercised the 60-day option. But the important thing about it, as I see it, is that there is a definite target date announced, as opposed to a plan with no target date at all. That is really crucial. We are not telling the President how many forces have to be out, except for the one provision that by April 30 he should achieve the 280,000 force level he himself has announced.

Mr. DOLE. Mr. President, I ask unanimous consent that a story in today's Evening Star, entitled "Cambodian Town Captured, Viet Orphans Killed," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Aug. 31, 1970]

CAMBODIA TOWN CAPTURED, VIET ORPHANS KILLED

PHNOM PENH.—Viet Cong forces overran the town of Srang, 26 miles southwest of Phnom Penh, and forced Cambodian defenders into what the government called a tactical withdrawal yesterday.

The South Vietnamese command said North Vietnamese troops killed 10 persons and wounded 44 in an attack on a South Vietnamese orphanage.

"This is just plain murder," said Maj. Thomas J. Pentacost of Camp Lejeune, N.C., of the attack on a Buddhist compound near An Hoa, 352 miles northeast of Saigon.

The report said uniformed North Vietnamese troops also seized a Buddhist monk, dragged him from his pagoda, bound his wrists and shot him to death when he refused to give them his money. The troops also robbed the orphanage treasury and fled with pigs and chickens, the report said.

SEIZURE OF SRANG

Communiques from Phnom Penh said Communist troops had seized the town of Srang. Spokesmen said Cambodian troops withdrew "to avoid the Viet Cong pressure and give airplanes a clear target."

Heavy air strikes were called in to try to force the Viet Cong out of the area around Srang. The spokesman declined to say whether American jets took part in the attacks.

Allied officials in Saigon reported 40 shelling attacks overnight, 20 fewer than the previous night. At least 42 civilians died and 114 were wounded in Communist shellings and ground attacks early yesterday.

The 60 rocket and mortar attacks throughout South Vietnam late Saturday and yesterday morning were the most since 96 were carried out June 4, military spokesmen said. Allied officials described "enemy activity" at its highest level since early May. They say it is an apparent attempt to disrupt South Vietnam's senatorial elections.

A South Vietnamese military doctor and 12 government troops who seized a hospital and began sniping at passersby at NHA Trang Air Base, 188 miles northeast of Saigon, were subdued today after the doctor, Capt. Ha Thuc Nhom, unsuccesfully tried to commit suicide. Three persons were killed in the six-day siege, including a U.S. soldier.

Fighting across Cambodia was light following the Viet Cong seizure of Srang.

There was no estimate of the number of Communist troops around Srang. The fighting broke out Friday with a series of harassment attacks and ended yesterday with a successful Communist assault on the town.

"I do not believe the Viet Cong will stay in that town too long," the military spokesman said. He did not elaborate.

ATTACK NEAR CAPITAL

Military officers at Moat Krasas Krao, six miles east of Phnom Penh, said the Viet Cong control the area around the town's Roman Catholic Church and a reinforced Cambodian company has fortified government positions in the town in expectation of an attack by 200 Viet Cong.

The Viet Cong moved into the area Saturday. It was the closest battle to the capital so far.

Allied military sources in Saigon said the level of enemy activity remained high today, but the shelling attacks fell off from weekend levels.

Mr. STENNIS. Mr. President, I yield 10 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER (Mr. COOK). The Senator from South Carolina is recognized for 10 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to amendment No. 862, the so-called end the war amendment, now pending in the Senate. This amendment has been revised a number of times, the latest version requiring that no funds shall be provided to maintain a troop level greater than 280,000 after April 30, 1971. Further, it is required that after April 30, 1971, funds provided in the act may be used only for the following purposes: First, orderly termination of all military operations and the withdrawal of remaining forces by December 31, 1971; second, to secure the release of U.S. prisoners of war; third, provision for the asylum of Vietnamese who might be endangered by the U.S. withdrawal; and fourth, assistance to the Republic of Vietnam consistent with the foregoing objectives.

Amendment No. 862 also provides that in the event these deadlines may endanger U.S. personnel, the President may extend the December 31, 1971 date, 60 days. If such action is taken the President shall inform the Congress forthwith of his findings and within 10 days of the suspension the President may submit recommendations, including—if necessary—a new date for congressional approval.

Even though this amendment has been altered several times in the past few days, it is still a bad amendment and its passage could result in serious consequences both for United States and South Vietnamese forces in South Vietnam.

Mr. President, there are a number of reasons why I oppose this amendment. First among them is the fact that despite the lengthening of the withdrawal date, the amendment would still limit the flexibility of the President as regards our commitments in South Vietnam. This brings us to a key point in this entire discussion. Should the President of the United States, as Commander in Chief, continue to direct this country's disengagement in Vietnam or should the Congress take over? I submit that this country would be making a grave mistake if the Senate accepts this amendment and restricts the President in his powers as Commander in Chief. If the Senate wishes to speak on this matter it should do so with a resolution rather than a restrictive amendment. The President has made good on his promises involving the war in Vietnam. We are in fact well along on our program of reducing U.S. forces from Southeast Asia. Our experience with promises by the Secretary of Defense leads us also to believe when he says, as he has several times, that U.S. forces remaining after June 1971 will be mainly support forces or protecting U.S. support forces.

But our plans and actions in Southeast Asia must take into account both the continued safety of U.S. forces. In the absence of a negotiated settlement successful implementation of the program of Vietnamization must be attained if we are to assure the right of the people of South Vietnam to choose their own Government. To impose upon the President an arbitrary deadline and special limitations unrelated to those objectives would prejudice and could preclude attainment of a just and durable peace in South Vietnam.

Second, it is equally important that in our planning we take into account the matter of prisoners of war. We have sought in every imaginable way to bring pressure on the enemy to abide by the Geneva Conventions and to treat our men humanely. In Paris, we have tried repeatedly to conduct meaningful talks on the prisoner of war issue. Earlier this year the government of Vietnam released unconditionally 62 sick and wounded North Vietnamese Army prisoners of war and transported them to the shores of North Vietnam. Our Government has also spoken out at the United Nations.

As individuals, we have supported resolutions by the Congress and initiatives by other organizations. This effort was intended to enlist the support and influence of world opinion in the cause of our men now held prisoner in North Vietnam and elsewhere in Southeast Asia.

A public, fixed schedule of withdrawals likely would adversely affect chances to get U.S. prisoners of war back. Our military forces in Southeast Asia give us some leverage in negotiations for better treatment and release of U.S. prisoners in enemy hands.

Third, the December 31, 1971, date for total withdrawal is too great an acceleration to allow the South Vietnamese to achieve a sufficient capability in all requisite fields to cope with the enemy. Training of South Vietnamese in complex skills will not be completed by this date. In this connection, I am referring to the training of pilots and those personnel who operate and maintain sophisticated equipment. This training cannot be accelerated significantly. While I recognize that the vast majority of our military personnel will be out of Vietnam by the end of next year, we will still need some soldiers there for training purposes in the areas I have just mentioned.

Fourth, this amendment precludes a military assistance advisory group—MAAG—considered necessary to insure continued progress by the South Vietnamese. While such a group would not be large, its technicians are needed to assist the Vietnamese in managing and logistically supporting the large military structure we will leave behind. If we fail to provide such support, we would thus significantly reduce the capability of our allies to secure their own defense. Thus, we would reduce the chances of continued freedom for the South Vietnamese.

Finally, for these reasons I oppose this amendment and urge my colleagues to defeat it. While the amendment has been altered considerably to bring it in line with President Nixon's timetable, it is still unwise to impose a set schedule on him.

Mr. President, some have called this amendment the lose-the-peace amendment. There is a lot of truth in that charge. Our history shows us we have often won the war but lost the peace. In Vietnam we have not won the war. We certainly cannot afford to lose the peace.

If we take this action it would reduce U.S. international credibility and bring all U.S. obligations and treaties into immediate review by our allies. It would be clear that these obligations had unspecified time limits which are apt to grow shorter if subject to pressure.

I submit to my colleagues that the winning of the peace in Vietnam will be especially difficult if we accept this amendment. We have lost a lot of men in this war. We owe them our best in bringing our involvement in South Vietnam to a successful conclusion.

It would be a crime to lock ourselves into schedules and timetables which would throw away our chances to make this commitment worthwhile. Three Presidents have been involved in this commitment. We must not bind the one whose actions will decide the fate of the South Vietnamese people and the fruits of our efforts in Indochina.

The country knows of the concern of every Member of Congress regarding our commitment in Southeast Asia. The President has gone to extremes to reassure the people in this area. In the heat of this debate let us reject this amendment so as not to destroy the efforts of the past 10 years.

Mr. President, I ask unanimous consent that an editorial entitled, "The White Flag Amendment" published in the New York Daily News of Monday, August 31, 1970, be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE WHITE FLAG AMENDMENT

The "White Flag Amendment"—which masquerades as the "amendment to end the war" comes before the Senate tomorrow for a showdown vote.

This bugout scheme is co-sponsored by Sens. George McGovern (D-S.D.) and Mark Hatfield (R-Ore.). And despite some last-minute chopping and changing to sucker fence-sitting senators, the proposal remains what it has always been, a blueprint for a U.S. surrender in Vietnam.

It would force a pell-mell pullout of American forces there by cutting off all funds for the Vietnam war as of Dec. 31, 1971. It represents the kind of simple—and simple-minded—solution to Vietnam for which arch-doves and pacifists (as well as the defeatists and Reds who lurk behind them) have long clamored.

This amendment wears the phony tag of a "peace" plan. More accurately, it constitutes a first step toward whittling Uncle Sam down to pygmy size in the world power scales; it would fill our enemies with glee and our friends with dismay.

McGovern-Hatfield might appear a cheap out from Vietnam. But we would pay for it dearly later in other challenges and confrontations as the Communists probe, as they inevitably do at any sign of weakness, to determine the exact jelly content of America's spine.

The McGoverns, Hatfields, Fulbrights, Goodells and their ilk would have the nation believe that its only choice lies between their skedaddle scheme and an endless war. That is a lie.

President Richard M. Nixon has a program for ending America's commitment in Vietnam, and it is now under way. It involves an orderly cutback in U.S. forces.

The White House method assures the South Vietnamese at least a fighting chance to stand on their own feet and determine their own future after we leave.

Equally important, it tells the world the U.S. is not about to pull the covers over its head and duck out on its responsibilities as leader of the free world.

We urge the Senate to slap down the McGovern-Hatfield amendment, and scuttle with it any notion that America is willing to buy off noisy dissidents at the price of its honor.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 2 minutes.

THE PROPOSAL TO END THE WAR

Mr. McGOVERN. Mr. President, I call to the attention of the Senate an excellent editorial that appeared in the Boston Globe of last Saturday. It is a rather lengthy editorial and sets forth the reasons why the amendment to end the war should be agreed to. I think it is one of the most cogently reasoned editorials that has ever come to my attention.

I ask unanimous consent that the editorial to which I have referred be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PROPOSAL TO END THE WAR

If the Hatfield-McGovern proposal to end the war in Vietnam is defeated in the United States Senate when it comes to a vote Tuesday, the reason will have to be that some senators, including several from New England, have not yet recovered from the brainwashing they got at the White House when the proposal was in its original and largely unacceptable form.

There now is no discernible reason for the White House itself, let alone its most loyal Senate supporters, to oppose the proposal (an amendment to the $19.2 billion military authorization bill) unless it be, as some White House dissidents have stated to their Senate confidants, that "the President does not want the Senate to take the play away from him in an election year."

The Hatfield-McGovern proposal, as amended within the last few days, yields to every legitimate claim the President could make that his constantly asserted powers as commander-in-chief of the armed forces, would be diluted. The proposal, as meticulously amended by Senate constitutionalists, preserves all of the President's legal prerogatives. It denies him only the "right," so dubious that not even his most ardent Senate backers have asserted it, to prolong and widen the war in any manner that he may deem fit.

On April 20, Mr. Nixon asserted, "I tonight announce plan for the withdrawal of an additional 150,000 American troops to be completed during the spring of next year. This will bring a total reduction of 265,500 men in our armed forces below the level that existed when we took office 15 months ago."

Give or take a man or two, this is almost precisely what the Hatfield-McGovern proposal, as amended, would do. It leans over backwards to protect the President's asserted prerogatives, even though many Senate constitutionalists believe he has grievously overstated them. The arithmetic of the President's proposal would leave between 260,000 and 270,000 men in Vietnam after next spring. The Hatfield-McGovern proposal would permit him 10,000 more than this after next April 30. And while it provides for the cutoff of all funds for troop maintenance in Indochina by Jan. 1, 1972, it also gives the President a 60-day grace period if he wants it and provides, in addition, that the President thereafter may ask Congress for further extensions. It gives him all reasonable flexibility.

If the White House, then, is really serious about winding down the war and is holding nothing up its sleeve, its opposition to Hatfield-McGovern is inexplicable except for

the above-stated political reasons. An incidental fact possibly worthy of note is that the Administration's announced withdrawal timetable is already behind schedule. Withdrawals which had been averaging 12,500 a month have been cut back to between 7000 and 7500. Another interesting incidental is the way the American people have reacted to news developments, as these reactions have been noted by senators.

After the invasion of Cambodia, the mail was running 12 to 1 in favor of the Hatfield-McGovern resolution. After the withdrawal, the public fears appeared to be allayed. There was very little mail one way or another. Now (and this may be a bit of an eye opener at the White House) the volume of mail overwhelmingly favoring the "get out" amendment has picked up considerably as a consequence of such warlike speeches as the one in which the Vice President told a veterans' convention, "The nation will not go down to humiliating defeat on the battlefield, I promise you that." His most recent utterance, in Bangkok, should give even further pause to those who have reason to believe this war could drag on for years if senators now run out on their own responsibilities:

"If my visit to Cambodia gave the Communists the impression (that the United States was contributing to an escalation of our involvement there), that is exactly what we had in mind."

The ambiguity in this and other pronouncements of the executive branch should give senators a feeling of uneasiness, at the very least. They would do well to ponder the counsel of Sen. Edward W. Brooke, himself a recent convert to the Hatfield-McGovern proposal as it has been amended:

"The proposal lends congressional sanction to a responsible program (for ending the war). It provides a reasonable and flexible means for harmonizing legislative and executive policy on this perplexing issue. . . . It can bolster the President. . . . It can strengthen the chance for peace. . . . It can open the path to reconciliation for the American people."

What more can senators want? And what less can the disturbed American people demand?

LEGAL EXPERTS SUPPORT M'GOVERN-HATFIELD AMENDMENT

Mr. McGOVERN. Mr. President, in a similar vein, a letter to the editor published in the New York Times of August 30, 1970, signed by five distinguished legal scholars—Bruce Bromley, William T. Coleman, Jr., John W. Douglas, Roger Fisher, and Paul C. Warnke—advances the thesis that the important question here really centers on the issue of whether we should announce a time certain, a definite date for the withdrawal of our forces or whether we should proceed on the policy advanced by the administration and leave that withdrawal date uncertain and the time for our disengagement open ended.

I ask unanimous consent that the letter to the editor of the New York Times to which I have referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEBATE ON MCGOVERN-HATFIELD AMENDMENT URGED

To the Editor:

As the Senate approaches a vote on the McGovern-Hatfield "Amendment to End the War," it is imperative that citizens and legislators alike focus on the central issue—the wisdom of setting a time limit on our military involvement in Indochina. Unfortunately, too much attention in the debate has been devoted to irrelevant argument about whether the President or the Congress should control military tactics.

Some opponents of the amendment have characterized it as an attempt by Congress to dictate military tactics to the President and to infringe upon his powers as Commander in Chief of our armed forces.

The fact is, however, that the amendment does not deal with military tactics. It is wholly concerned with the basic issue of the use of our military force to make war in Indochina and calls for an end to our direct military involvement in that area by Dec. 31 of 1971. Up until the time that our forces are disengaged, the President will retain full control over tactical decisions.

We recognize, of course, that the President has far-ranging powers as Commander in Chief. In an emergency situation like Pearl Harbor, it is his responsibility to take the immediate action necessary to meet the particular emergency.

In a war authorized by Congress, it is his responsibility to make the day-by-day civilian decisions on the tactics to be employed, how that war shall be fought, whether to take an offensive or defensive position, and what conventional forces should be used in a particular battle.

The President's powers, however, do not extend to the basic policy question of when our national objectives shall be pursued by military means. That is the responsibility of Congress. The President is not free to decide on a unilateral basis when, where, how long and against whom the United States shall wage war.

The division of responsibility between the Congress and the President is made clear by the Constitution itself. To insure that the elected representatives of the people would decide to what use any standing army would be put, the Constitution provided that no appropriation for an army shall have a term longer than two years. No comparable limitation on any other type of appropriation is to be found in the Constitution.

This restriction was designed to compel Congress to exercise its responsibility to review and, if necessary, restrain, international military activity. In the Federalist No. 26, Alexander Hamilton, a supporter of a strong executive, makes clear the intention of the Constitutional Convention in this regard.

The most recent example of Congressional exercise of its constitutional duty is Section 643 of the Department of Defense Appropriations Act of 1970, which provides that "none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand." The bill was signed by the President without constitutional objection.

Similarly, the Selective Training and Service Act of 1940 included a prohibition against the employment of persons inducted under the act beyond the limits of the Western Hemisphere, except in U.S. territories and possessions.

We recognize that the present Administration inherited our military involvement in Indochina. We also recognize that the manner by which that involvement may be terminated is open to question. But what is needed as the vote on the McGovern-Hatfield Amendment approaches is a straight-forward debate on the merits of setting a date for termination of the Indochina war, uncluttered by any argument that Congress is attempting to usurp Presidential power or prerogatives.

BRUCE BROMLEY.
WILLIAM T. COLEMAN, Jr.
JOHN W. DOUGLAS.
ROGER FISHER.
PAUL C. WARNKE.

CASUALTY AND COST PROJECTIONS FOR DIFFERENT VIETNAM WITHDRAWAL PLANS

Mr. McGOVERN. Mr. President, two former experts in the systems analysis section of the Assistant Secretary of Defense, Charles Shirkey and Arnold Kusmack, have prepared a series of projections on what the casualties and cost projections are likely to be under the various alternatives for ending our involvement in the war in Indochina.

The first projection deals with the cost in dollars and the number of Americans who might be killed in action and the number of Vietnamese casualties that would develop if we were to follow the withdrawal plan outlined in the pending amendment.

Another projection deals with the costs in all of those categories if we were to continue at the present withdrawal rate as outlined by the administration.

Another projection deals with what the likely casualties and costs would be if we were to continue our present withdrawal schedule but leave a residual force of either 50,000 or 200,000 men, which is another figure that has been referred to.

I think that Senators will find these projections to be of great interest and assistance in reaching their vote on this amendment tomorrow.

Mr. President, I ask unanimous consent that this tabulation be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

CASUALTY AND COST PROJECTIONS FOR DIFFERENT VIETNAM WITHDRAWAL PLANS

	Cost (billions)	Increase over case 1	Americans killed in action	Increase over case 1	American casualties	Increase over case 1	South Vietnamese killed in action	Increase over case 1	Total Vietnamese killed in action	Increase over case 1	South Vietnamese casualties	Increase over case 1	Total Vietnamese casualties	Increase over case 1
1. Withdrawal by end of 1971	$15.0	----------	3,800	----------	33,900	----------	130,000	----------	370,000	----------	500,000	----------	1,045,000	----------
2. Current withdrawal rate, out by early fiscal year 1973	19.7	4.7	5,400	[1] 1,600	47,900	[2] 14,000	140,000	10,000	400,000	30,000	540,000	40,000	1,130,000	85,000
3. Current withdrawal rate, residual force of 50,000 men	25.7	12.7	7,400	3,600	65,450	31,550	195,000	65,000	555,000	185,000	750,000	250,000	1,565,000	520,000
4. Withdrawal delayed in fiscal year 1972, residual force of 50,000 men	31.5	16.5	9,500	5,700	84,000	50,100	215,000	85,000	600,000	230,000	810,000	310,000	1,695,000	650,000
5. Continuing force of more than 200,000 men (fiscal year 1975)	46.4	41.4	14,700	[1] 10,900	130,300	[2] 96,400	265,000	135,000	715,000	345,000	960,000	460,000	2,025,000	980,000

[1] Killed in action.
[2] Wounded.

Note: All projections are based on the period, fiscal years 1971–75. "Casualties" means dead and wounded.

REBUTTAL TO NEW YORK TIMES EDITORIAL OF AUGUST 31, 1970

Mr. HATFIELD. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 4 minutes.

Mr. HATFIELD. Mr. President, the New York Times this morning published an editorial which describes the "amendment to end the war" as having a "sound motive" but being a "dubious method." I believe that the New York Times has misunderstood the nature and import of the amendment, and several points which are raised in the editorial need clarification and correction.

The New York Times maintains that "it is unwise to fix a withdrawal schedule for—the President—by law" because it would restrict presidential options. The fact is that this amendment does not curb the President's powers to achieve a safe and systematic withdrawal from Vietnam, which is the President's own stated objective. The amendment provides flexibility for the President in meeting the deadline of December 31, 1971; it offers a 60-day extension of the deadline; and if additional time is necessary to withdraw American troops safely, Congress may grant that time at the request of the President.

Furthermore, this amendment imposes no restrictions on the President in his search for a negotiated settlement to the Vietnam conflict or in his determination of a sound military strategy during the next 15 months. It does, however, distribute the responsibility for the future course on the war between the Congress and the President. That is where the Constitution places the responsibility for war; that is where it ought to be now and remain in the future.

The New York Times also objects that this amendment would not contribute to a negotiated settlement of the war but only end American involvement in the conflict.

It claims that Ambassador Bruce would have additional difficulties in breaking through the deadlock in Paris because "there will be little incentive for Hanoi to negotiate a settlement if the President is under congressional mandate to meet a deadline for evacuation."

The facts contradict this analysis. Hanoi and the Vietcong have always stated that a stipulated withdrawal date of all American troops is the primary precondition for a negotiated settlement. If this amendment is passed, if we declare that all American troops will be withdrawn by the end of 1971, a breakthrough in Paris might at last be a possibility.

The New York Times advocates a declaration of a ceasefire as the means to move negotiations forward, but President Thieu in his speech of July 31 has already rejected an unconditional ceasefire and has committed himself only to a cease-fire based on negotiations. Therefore, a cease-fire declaration cannot be a "prod" to negotiations, but only the result of negotiations.

Let us keep in mind that a withdrawal does not eliminate the possibility of a cease-fire; rather, it provides a satisfactory basis for both sides to reach a conclusion to reduce or stop the fighting.

Furthermore, the critical relationship at Paris talks is not between the United States and Hanoi but between the Vietnamese themselves. As long as Saigon has the assurance of an indefinite presence of American troops in Vietnam, it has no incentives to negotiate seriously in Paris. As long as Hanoi has no concrete indication of our desire to leave Vietnam completely, it will continue to fight and to resist any American negotiating proposals.

We agree with the New York Times that "a prod would undoubtedly be useful" in Paris. A cease-fire which has already been rejected by the South Vietnamese provides little hope of being such a prod. An announced withdrawal date does.

It would compel Saigon to confront the political realities within South Vietnam and encourage the Government to broaden its base and seek a just accommodation of all the contending groups.

Furthermore, a fixed withdrawal date would provide Hanoi and the Vietcong with new incentives to make the concessions necessary for a negotiated settlement. For the first time, it could be possible to negotiate effectively the release of prisoners of war. A cease-fire and de-escalation could be instituted to secure the safety of American troops during withdrawal; the level of conflict in Laos and Cambodia could be reduced and the political impasse in South Vietnam might at last be penetrated.

This amendment neither restricts the Presidential options in bringing the war to an end nor does it represent a threat to the Paris negotiations. Instead, it is a reasonable, rational proposal for bringing this war to an end and saving human lives—American and Vietnamese.

SAVINGS TO BE EFFECTED BY THE AMENDMENT TO END THE WAR

Mr. HATFIELD. Mr. President, the subject of the economic stability of this country after the Vietnam war is the concern of every citizen. Inflation has affected nearly all areas of the country and every sector of the economy. The amendment to end the war would result in substantial savings for the Federal Government, savings which could be used for domestic needs. I would like to commend to the Senate two articles by Peter T. Knight, entitled "The Conversion Problem: Can Swords Be Beat Into Plowshares Without Severe Economic Dislocations?" and "The War, Inflation, and the Housing Market." Both articles discuss the effect which the war has had upon the American economy and the economic effects of the amendment to end the war. The author holds a Ph. D. in economics from Stanford University. I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE CONVERSION PROBLEM: CAN SWORDS BE BEAT INTO PLOWSHARES WITHOUT SEVERE ECONOMIC DISLOCATIONS?

(NOTE.—Peter T. Knight, the author holds a Ph. D. in economics from Stanford University. He wishes to thank Charles Shirkey, Reuben McCornack, Len Ackland, Philip Musgrove and Arnold Kantor for helpful comments on an earlier draft of this paper.)

"Peace in the world should be a hopeful prospect. And one of the ways to create such a prospect is to assure, through rational conversion planning, that the anvil on which peace is hammered out is not the heads and backs of demobilized servicemen and displaced defense workers and their families."

"When a defense worker gets laid off in a helicopter plant in Texas or in a plant in Southern California, or in Connecticut or in Massachusetts, he will not be quiet if you tell him that the economy will eventually solve his problems by creating a job for him half way across the continent, if he somehow finds it possible to survive."—Walter P. Reuther, testimony before the Senate Committee on Labor and Public Welfare, hearings on *Postwar Economic* Conversion, December 1, 1969.

INTRODUCTION

The principal issue to be discussed in this paper is whether a publically announced timetable for withdrawal from Indochina according to the Hatfield-McGovern Amendment (Senate Amendment 862), which would reduce *military* spending by about $2.6 billion in FY 1971 and $8.2 billion in FY 1972, would cause serious dislocations in our national economy.[1]

It is a political fact that resistance to reductions in expenditures for war will be encountered unless viable job alternatives are provided for people engaged in military work, whether such persons are currently in the armed forces or involved in defense production. The immediate problem is posed by the demobilization of military personnel and cutting back of production in defense plants which have been supporting the war in Southeast Asia.

Reducing the "baseline" military budget (FY 1964 level corrected for inflation) beyond the level proposed by the Nixon Administration, considered desirable by many people in view of the changed international situation and pressing demands for new domestic programs, is a separable issue. It is not dealt with by the Hatfield-McGovern Amendment and will not be considered specifically here.[2] However, many of the existing programs and policy proposals discussed in this paper are also applicable to cuts in the "baseline" military budget.

The problem of converting productive capacity from wartime to peacetime use, both in terms of personnel and plant and equipment, is not one without precedents for the U.S. economy. Defense spending fell from 37.5 percent of GNP in 1945 to only 6.6 percent in 1947, a period of only two years.[3] In the same period 9,850,000 men were demobilized from the armed forces.[4] In FY 1970, total government purchases of goods and services for national defense amounted to 8.2 percent of GNP and the incremental cost of the war in Southeast Asia, as calculated by the Department of Defense ($17.4 billion) came to 1.8 percent of GNP.[4] U.S. military personnel in Southeast Asia, including Naval Forces averaged about 600,000 in FY 1970, not all of which would leave the armed forces when withdrawn from the theatre of operations.

Assuming a GNP of $1014 billion in FY 1971 and $1075 billion in FY 1972 measured in the prices expected to prevail in those years, the cutbacks in military spending implicit in the Hatfield-McGovern Amendment ($2.6 billion in FY 1971 and $8.2 billion in FY 1972) amount to 3 tenths of one percent and 8 tenths of one percent of GNP in these years, respectively.[5]

Now that the relative magnitudes of these reductions in war expenditures have been placed in perspective, the body of this paper

Footnotes at end of article.

will discuss policies and programs for dealing with the conversion problem at both the macroeconomic level—maintaining adequate aggregate demand in the economy—and at the microeconomic level, where the focus is on the individuals, communities, and firms which are likely to be affected by cutbacks in war spending.

A. *Maintaining the Level of Aggregate Demand.*—The effect of reductions in war and other military spending, other things being equal, is deflationary. If the economy were overheated, cutbacks in military spending might present a welcome opportunity to reduce excessive demand. Today, however, the economy is already in a mild recession.

There is ample room for debate concerning the proper mix of fiscal and monetary policy to restore price stability and healthy economic growth such as we enjoyed in the years preceeding the escalation of the Vietnam war. But few economists would argue that we should cut military expenditures without taking offsetting stimulatory action. The real issue in maintaining a favorable economic climate in which the conversion process can take place is whether reductions in military spending should be offset by:

(a) increases in federal spending on high priority programs in the areas of pollution and crime control, health care, housing, nutrition, poverty, mass transport systems and the like;

(b) tax reductions;

(c) easing the restrictive monetary policies which have severely depressed residential construction and more than doubled the cost of borrowing for state and local governments since the war was escalated in 1965; [6]

(d) some mixture of the above;

Only if none of these policies were followed would there be any danger that cuts in military spending would help precipitate a generalized recession.

If we are serious about reordering national priorities, alternative (b), tax cuts, must be ruled out, however attractive it might appear at first glance. For while valuable human and material resources have been sacrificed to the war effort, our environment has deteriorated, an acute housing shortage has developed, urban and racial problems have continued to worsen, our system of medical care approaches collapse, and hunger has been discovered in America—in short, the very fabric of our society is being torn apart. John Kenneth Galbraith has stated the case eloquently.

"I am not sure what the advantage is in having a few more dollars to spend if the air is too dirty to breathe, the water is too polluted to drink, commuters are losing out in the battle to get in and out of cities, the streets are filthy, the schools are so bad that the young wisely stay away, and hoodlums roll citizens for the dollars they save in taxes." [7]

A successful attack on these problems is sure to require far more than the funds that would be released by ending American participation in the war. Nevertheless, the money saved by adopting the Hatfield-McGovern Amendment could make substantial contributions. For example, the $2.6 and $8.2 billion in FY 1971 and FY 1972 respectively could purchase the following: [8]

Item or program	Fiscal year 1971	Fiscal year 1972
Low cost housing units of 3.5 to 4.5 rooms in typical developments of approximately 270 units at an average construction cost per unit of $14,500; or	179,000	566,000
Public health centers at an average cost of $550,000 for a center serving a population of 50,000 to 100,000 and providing such services as physical checkups, presymptom screening, immunization, health education, family planning, diagnostic services, rehabilitation services, drugs, etc.; or	4,700	14,900
Hospitals of 125 beds each at an average cost of $19,716 per bed for building and fixed equipment costs at a cost of $24,047 per bed for total project cost. Average facilities of such a hospital to include blood bank, central supply, clinical laboratory, electrocardiograph, medical record department, outpatient and emergency departments, pharmacy, X-ray diagnosis, operating rooms, delivery rooms, postoperative recovery room, medical library, premature nursery, and physical therapy department; or	865	2,728
New public elementary and high school classrooms; or	39,000	123,000
Full 4-year scholarships for tuition, board, and room at public colleges and universities; or	260,000	820,000
Acres of city parks, approximately half at an average of $75,000 per acre and the balance of $4,000 per acre; or	65,800	207,600
Multiply expenditures for air and water pollution control proposed in the fiscal year 1971 budget by the factors indicated; or	5.0	15.6
Multiply Federal expenditures for urban mass transport programs proposed in the fiscal year 1971 budget by the factors indicated; or	8.7	27.3
Multiply Federal expenditures for law enforcement proposed in the fiscal year 1971 budget by the factors indicated	2.1	6.5

Summarizing, the best method of neutralizing the deflationary impact of cuts in *military* spending would probably be some combination of increased government spending on civilian programs to meet urgent social needs and a less restrictive monetary policy. The latter would be a first step forward making up the housing deficit which has accumulated during the war and allow state and local governments access to the capital market on more favorable terms.

B. *Helping Individuals, Firms, and Communities.*—It is sometimes argued that, to accomplish the transition to a peacetime economy, all that is needed is to maintain a satisfactory level of aggregate demand in the economy as a whole. While assuring a healthy economic environment at the national level is *necessary* for assuring a smooth and orderly conversion, it is by no means *sufficient*. This argument neglects the fact that some individuals, firms, and communities are likely to be especially hard hit during the transition period. To neglect their very real fears and anxieties would be to court their political opposition.

What are the dimensions of this problem? First of all, some productive capacity can be re-converted to civilian use as was done after World War II—for example, firms making military uniforms can easily make clothes for civilians—but for other firms the problem is not reconversion but simply conversion. They have grown up catering to the military and have little experience producing for the civilian market.[9] This problem is less severe for capacity related to the conventional war in Southeast Asia than that which was designed to produce highly sophisticated weapons systems, such as missiles, nuclear weapons, and esoteric items for the military space program. Nevertheless, it is a problem most importantly for munitions plants and manufacturers of helicopters and jet fighter-bombers.

But what percentage of the decreases in military expenditures which would occur if the Hatfield-McGovern plan were carried out would consist of cutbacks in munitions, aircraft, and other types of production which might present conversion problems? This question cannot be answered authoritatively with official figures, but it is possible to make some estimates which should be fairly accurate. Since breakdowns of incremental Southeast Asia war costs are not available for FY 1971 and FY 1972, our starting point will be FY 1970. According to the statement presented to the House Appropriations Subcommittee on the Department of Defense by Robert C. Moot, Assistant Secretary of Defense (Comptroller) on March 3, 1970, the breakdown for FY 1970 was the following: [10]

[Dollars in billions]

	Amount	Percent of total
Military personnel	$5.375	30.8
Operations and maintenance	5.438	31.2
Procurement	6.283	36.1
Research, development, testing, and evaluation	.112	.6
Military construction	.220	1.3

To be very conservative (i.e., provide an upper limit for military demand which could result in "hard core" conversion problems), assume that 25 percent of the operations and maintenance expenditures (O&M) and 75 percent of the procurement expenditures consist of purchases of munitions and sophisticated military equipment. Next assume that each of these categories, O&M and procurement, will be the same fraction of total incremental war costs in fiscal year 1971 and fiscal year 1972 as they were in fiscal year 1970. Incremental costs of the war in fiscal year 1971 and fiscal year 1972 respectively are estimated at $11.2 and $11.1 billions if the President withdraws only the number of troops he has announced to date.[11] According to the same source, the savings by following the Hatfield-McGovern plan would be $2.6 billion in fiscal year 1971 and $8.2 billion in fiscal year 1972, in the projected prices of those years, that is taking into account expected inflation. Finally assume that O&M and procurement are the same percentages of these cost *reductions* as they are of estimated costs if the war proceeds according to the Nixon plan. That would mean cutbacks in demand for hard-to-convert defense production on the order of $.9 billion in fiscal year 1971 and $2.9 billion in fiscal year 1972, or one-tenth of 1 percent of projected GNP in fiscal year 1971 and three-tenths of 1 percent in fiscal year 1972.[12]

A rough estimate of the people employed in hard-to-convert military production which would be affected is 35,000 in fiscal year 1971 and 110,000 in fiscal year 1972.[13]

Thus it would appear that the magnitude of the "hard core" conversion problem is not that great. But even this relatively small "hard core" problem should not be ignored, since it could mean real hardships for the individuals, firms, and communities affected.

Planning for meeting the conversion problem will, of course, be facilitated by having a publicly announced timetable of troop withdrawals. The following paragraphs review existing and proposed programs at the microeconomic level which might be utilized to smooth the transition to a peacetime economy.

1. *Programs to Assist Individuals.*—Most existing and proposed programs in this category are designed to maintain an affected person's income while he is searching for or preparing himself for a new job and to increase labor mobility through retraining, the provision of information on job openings, the payment of moving costs, and the like.

(a) Income maintenance: Coverage and benefits obtainable under unemployment compensation systems in the United States varies widely from state to state and is usually insufficient to permit a worker to maintain his previously experienced level of living unless he has substantial private reserves. Residence requirements severely curtail the incentive to seek out new jobs outside the labor market area where the worker currently resides. A negative income tax would help remedy the situation, as would the federalization of existing unemployment compensation schemes. The Trade Expansion Act of 1962 and the proposed Trade Act of

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1970 (H.R. 18970, currently before Congress) contain provisions for income maintenance as well as retraining and other benefits for workers who lose their jobs due to tariff liberalization or other U.S. commercial policy.

(b) Retraining: The Manpower Development and Training Act of 1962, as amended, provides limited funds for "brief refreshers or reorientation courses in order to become qualified for other employment" to assist people "who have become unemployed because of the specialized nature of their former employment." A greatly expanded program under this act could be a major contribution to a smooth transition. Another precedent for retraining and transition benefits is the Trade Expansion Act of 1962.

On August 14, 1970, Senator Edward Kennedy introduced the Conversion Research and Education Act of 1970, a bill (S. 4241) which would, among other things, provide funds to "retrain scientists, engineers and technicians so that they can contribute constructively to civilian research and development activities" and "conversion fellowships to highly qualified scientists, engineers and technicians", according priority to "applicants . . . who have been or anticipate being out of work because of reductions in defense related research and development expenditures." The funds would be administered by the National Science Foundation Conversion Program. This proposal is directed at those highly trained scientists, engineers, and technicians which Richard Barnet suggested might become "a new class of $20,000-a-year hard core unemployed." [14] It might be added that while unemployed, they could be expected to be highly vocal and susceptible to political organization.

(c) Job information: The existing Federal-State Employment Service does not really function smoothly at the national level. The Nixon Administration's proposed Manpower Training Act of 1969 (S. 2838 and H.R. 13472) would, besides consolidating all Federally assisted manpower programs and their funding sources under the Department of Labor, require the Secretary of Labor to establish a computerized job-bank program:

"(1) to identify sources of available manpower supply and job vacancies;

"(2) to match the qualifications of unemployed, underemployed and disadvantaged persons with employer requirements and job opportunities on a National, State, local or other appropriate basis;

(3) to refer and place such persons in jobs; and

(4) to distribute promptly and to assure availability of information concerning manpower needs and resources to employers, employees, public and private job placement agencies and interested individuals and agencies." [15]

Work on this type of bank should begin immediately and in the meantime, increased resources should be provided to help handle increased demands on the existing Federal-State Employment Service.

(d) Travel and relocation costs: There is currently no provision, other than the exemption of moving costs permitted for income tax purposes, which would facilitate a displaced worker's moving to a new job once he found it, assuming this were necessary. Since the elimination of defense jobs would arise from an act of national policy, it would be just for the nation as a whole and not individuals affected to bear the financial costs of the relocations involved. There is a precedent in the Trade Expansion Act of 1962 for paying travel and relocation costs for persons who lose their jobs due to tariff liberalization.

(3) Homeowner assistance: Some provision must be made to prevent a worker who must leave an affected community from losing his equity in his home due to depressed prices and high brokers' fees. This problem is likely to be particularly severe when isolated military bases or production facilites are closed. Special FHA and VA mortgage forbearance procedures might be utilized here in special cases to avoid foreclosures, but there is no program to avoid a heavy loss if a home must be sold in a depressed market.

"2. *Programs for Private Business.*—At present there is no ongoing program designed to provide incentives for conversion from military to civilian production. On March 4, 1969, Senator McGovern introduced a bill to establish a National Economic Conversion Commission (S. 1285). Noting that a study by the Arms Control and Disarmament Agency of 12 cases of attempted diversification by defense contractors had found that "successful diversification needs the commitment of top management to the program. Such commitment is made difficult by several factors:

"There is a discouraging history of failure in commercial diversification efforts by defense firms;

"There is doubt that the defense customer wants diversification of these firms;

"There is little indication that the owners of defense firms or the financial community wish defense manufacturers to diversify;"

S. 1285 requires that "each defense contract or grant hereafter entered into by the Department of Defense or any military department thereof, or by the Atomic Energy Commission, shall contain provisions effective to require the contractor to define his capability for converting manpower, facilities, and any other resources now used for specific military purposes, to civilian uses."

The late Walter Reuther, in his testimony before the Senate Labor and Public Welfare Committee on December 1, 1969, said that he agreed with the intent of the bill and the motives of those who proposed it, but observed that ". . . unless you put some teeth into it . . . it will remain a noble declaration of purpose without any practical hope of being implemented, and I take it the worker in Texas, who is about to be laid off, will not be able to give a copy of that to the landlord or the guy who is trying to collect the next payment on his house." [16] To remedy this deficiency, he proposed an ingenious plan of economic incentives designed to force defense contractors to prepare and execute viable conversion programs in their own self interest. This proposal is described in great detail in Reuther's prepared statement to the Senate Labor and Public Welfare Committee.[17] The essence of the proposal is that 25 percent of each contractor's profits from defense production be required to be set aside as a conversion reserve to be held in a government trust fund. As Reuther explained it,

"Monies deposited in the trust fund would be released to carry out a conversion plan filed with the government by the contractor and to pay certain types of benefits to the contractor's workers to minimize hardships from which they might suffer during the transition to civilian production.

"Impounded profits released to the contractor by the trust fund for physical conversion of his facilities and for retraining of his workers would be no different, in principle, from profits voluntarily set aside and later reinvested by a civilian production corporation to reequip and retrain for manufacture of a new product when the market for an old one dried up.

"The fact that a portion of the impounded profits might have to be released to tide workers over the transition period is the spur to sound planning for conversion and effective and expeditious execution of the plans. For any impounded profits remaining after completion of conversion, plus interest on the entire amount deposited in the trust found, would be returned to the contractor. In consequence, successful and quick conversions, which would avoid or minimize benefits payable to workers in the transition period, would maximize the amount of impounded profits returnable to the contractor.

"The fact that impounded profits would be released to meet conversion costs only insofar as such costs were incurred *under a plan* filed by the contractor would tend to assure that he would plan seriously and carefully. The planning would be his and not the government's. Execution of the plan would also be in his hands. And his money would be at stake." [18]

Title IV of Senator Edward Kennedy's proposal, the Conversion Research and Education Act of 1970 (S. 4241) authorizes the Small Business Administration to make grants to small business concerns which have engaged in defense-related B&D activities within the three year period immediately prior to the date of enactment of the bill to pay up to 80 percent of the cost of enrolling eligible personnel of such concerns in any retraining programs set up by academic institutions, non-profit organizations, and business firms under Titles II or III of the same bill.

Both the McGovern proposal to create a National Economic Conversion Commission, as modified by Reuther's suggested incentive plan (with the government possibly sharing the cost by allowing the conversion fund to come from *pre-tax* rather than *post-tax* profits) and Kennedy's Conversion Research and Education Act would appear to meet real needs and should be given serious consideration by Congress.

3. *Programs to Assist Communities:* There are a number of existing programs which might be enlisted and possibly consolidated to provide assistance to communities which are severely affected by military cutbacks. Improving these existing programs and seeing that they are adequately funded should be an important part of any overall conversion program since there are a number of important labor markets—such as Seattle, San Diego, the San Francisco Bay region, St. Louis, parts of Connecticut and Massachusetts, and a number of areas in Texas—with high concentrations of defense industries. Particularly hard hit may be smaller communities which have grown up around isolated military bases or production facilities which might be closed.

The Department of Defense has an Office of Economic Adjustment to assist and encourage local leadership in impacted areas to identify and exploit their resources for economic growth. Staff members from this office visit such communities, provide ideas and advice, and help identify Federal programs applicable to local problems, putting community officials in touch with the approriate government offices. AEC and NASA have similar operations.

Perhaps the broadest legislation in this field is the Public Works and Economic Development Act of 1965 (PL 89–136). Under this act, an area designated a "Redevelopment Area" by the Secretary of Commerce becomes eligible for grants and loans for public works, development facilities, and a wide range of services. Areas in which the Secretary determines that "the loss, removal, curtailment, or closing of a major source of employment has caused within three years prior to, or threatens to cause within three years after, the date of request an unusual and abrupt rise in unemployment of such magnitude that the unemployment rate for the area at the time of request exceeds the national average or can reasonably be expected to exceed the national average by 50 percentum or more unless assistance is provided" may qualify for such assistance. Recently Seattle has been declared a redevelopment area due to the cutback in production at the Boeing plants in that city, which was not connected with the Indochina war. Richard Barnet has suggested that Federally owned military installations and/or defense

Footnotes at end of article.

production facilities be turned over to the affected community at nominal cost upon receipt of a plan for the utilization of the property.[19]

C. SUMMARY AND CONCLUSIONS

There is no need to fear a generalized recession as the result of major reductions in military spending. Offsetting fiscal and monetary policies can maintain a healthy level of aggregate demand in the economy while attacking some of the urgent social problems which have been allowed to accumulate while we have sacrificed valuable human and financial resources to the war effort.

But a healthy economic environment is not sufficient to insure a smooth transition to a peacetime economy. At the same time we seek to facilitate rational planning for conversion by calling for a publicly announced timetable of withdrawal from Vietnam, we must make every effort to minimize the inevitable disruptions which will affect specific individuals, firms, and communities if we seek to enlist their support in ending the war. This paper has reviewed some of the existing and proposed programs which might be used to achieve this end.

While it is hard to estimate what costs associated with the conversion effort might be incurred in any of these programs, they would be small in comparsion with the costs of continuing the war. Much of the necessary conversion is likely to occur without any assistance from the government as our flexible free enterprise economy reacts to changing demands which in turn reflect changing national priorities. Furthermore, any conversion costs incurred can be viewed as an investment in the future productive capacity and health of our society that are likely to have high returns. War expenditures finance a perverse kind of consumption which is parasitic on the economy and has proven dangerous to the social fabric of the nation. There is no reason to believe that the only way our dynamic economy can prosper is by continuing to pour good money after bad pursuing military "victory" in what is essentially an Asian civil war.

FOOTNOTES

[1] For a discussion of how these estimates were arrived at see Charles P. Shirkey, "Alternative Vietnam Withdrawal Plans and Budget Deficits in FY 1971–72," inserted in the *Congressional Record* August 27, 1970, and Arnold M. Kuzmack, "Casualty and Cost Projections for Different Vietnam Withdrawal Plans," inserted in the *Congressional Record*, August 24, 1970. See also the Appendix to the present paper, which is taken from Shirkey's paper.

[2] The number of persons serving in the armed forces on June 30, 1964, was 2,685,000. Of these, 21,000 were serving in Southeast Asia, leaving a "baseline" force of 2,664,000. However, the 2,482,000 man force existing on June 30, 1961, is perhaps a better estimate of the baseline force, since most of the difference between the 1961 and 1964 figures, 182,000 men, can be considered part of the buildup in the conventional forces within the United States designed to fight and support wars such as Vietnam. For the purposes of this paper, however, the "incremental costs" of the war will be based on the 1964 baseline which the DOD favors. Personnel statistics are from *The Budget of the United States Government for the Fiscal Year Ending June 30, 1966*, USGPO, Washington, 1965, page 70, and *Budget of the United States Government, Fiscal Year 1969*, page 83.

[3] Data from DOD, OASD (Comptroller), FAD 119, 24 January 1967.

[4] Calculated from data in Council of Economic Advisers, *Economic Indicators*, August 1970, page 2 (GNP and Defense Spending). Incremental costs of the war from Statement by Hon. Robert C. Moot, Assistant Secretary of Defense (Comptroller) before the Subcommittee on the Department of Defense of the House Appropriations Committee which may be found in the published hearings entitled *Department of Defense Appropriations for 1971*, USGPO, 1970, page 454.

[5] The FY 1971 and FY 1972 GNP figures assume a growth of real GNP of 2 percent in FY 1971 and 4 percent in FY 1972, with inflation of 4 percent in FY 1971 and 2 percent in FY 1972 for a total of 6 percent growth in monetary GNP in each year.

[6] The average number of public and private housing starts for the five war years 1965–69 was 3.9 percent below the average for the pre-escalation years 1960–64. During the first half of 1970 (annual rate) they were 10.1 percent below the 1960–64 average. These figures conceal a strong trend toward construction of apartment buildings and other multiple family dwellings as opposed to single family homes. The ratio of single family private housing starts to total private housing starts declined from an average of 68.9 percent in 1960–64 to 62.5 percent in 1965–69 and was running at 57.0 percent in the first six months of 1970. Meanwhile the number of new families seeking housing has been increasing rapidly as the children produced in the post World War II "baby boom" begin to marry and have children. The effect of the war on the housing market will be discussed in much greater detail in my forthcoming CYPPA paper, "The War and the Housing Market." All data cited above is from the publications of the Council of Economic Advisors: *Economic Indicators* (August 1970) and *The Annual Report of the Council of Economic Advisors, 1969*. Interest rates (Standard and Poors) for high grade municipal bonds have risen from 3.27 percent in 1965 to 6.69 percent in the first six months of 1970. (*Economic Indicators*, August 1970).

[7] Quoted in Jack Anderson, "After Vietnam—What? Will Our Economy Tumble if Peace Comes?," *Parade*, August 21, 1969.

[8] Friends Service Committee on National Legislation, calculated from data in "What a Billion Will Buy at Home," Charles L. Schultze et al., *Setting National Priorities: The 1971 Budget*, The Brookings Institution, Washington, D.C., 1970.

[9] A number of articles documenting this fact are reprinted in *Postwar Economic Conversion*, Hearings before the Committee on Labor and Public Welfare, United States Senate, Part 1 (USGPO, 1970). Testimony before the committee is also supportive of this assertion.

[10] Calculated from Tables 4 and 5, Statement of Hon. Robert C. Moot, *Department of Defense Appropriations for 1971, Hearings before a Subcommittee of the Committee on Appropriations, House of Representatives, Part 1*, USGPO, 1970, pages 488 and 489.

[11] See Appendix.

[12] .25 times 31.2 percent (O&M) +.75 times 36.1 percent (procurement) =34.9 percent. This percentage of 2.6 and 8.2 gives the figures cited, .9 and 2.9.

[13] These estimates were obtained by calculating the value of shipments per employee in two industries, aircraft and parts (SIC 372) and ordnance and accessories (SIC 19, which includes guns, howitzers, mortars, missiles, ammunition, tanks, small arms, etc.) for 1966 and then taking their simple arithmetic average, which is $22,733. (Data from U.S. Department of Commerce, Bureau of the Census, *Annual Survey of Manufactures, 1966*, USGPO, 1969). Assuming no change in labor productivity and a price increase of 14 percent between calendar year 1966 and FY 1971 and 16 percent for FY 1972 (based on the wholesale price index for industrial products), the value of shipments per worker was estimated as $25,916 for FY 1971 and $26,370 for FY 1972. The estimates of cutbacks in demand for the products of these industries was then divided by the estimated value of shipments per worker to give the figures used in the text. It should be added that the number of workers would be *less* if labor productivity in these industries improved over the period between 1966 and FY 1971–72.

[14] Richard J. Barnet, *The Economy of Death*, Atheneum, New York, 1970, page 154.

[15] Jean Polatsek, "Brief Operational Outline and Section by Section Analysis of the Proposed Manpower Training Act of 1969," Library of Congress paper 69–148–ED, 1 October 1969.

[16] Postwar Economic Conversion, *Hearings Before the Committee on Labor and Public Welfare*, United States Senate, Part 1, page 121.

[17] *Ibid.*, pages 70–91.

[18] *Ibid.*, page 79.

[19] *The Economy of Death*, p. 163.

COST AND SAVINGS OF ALTERNATIVE VIETNAM WITHDRAWAL PLANS [1]

[In billions of current dollars]

	Fiscal year 1971		Fiscal year 1972 [2]	
	Incremental cost	Savings (−) from current administration plan	Incremental cost	Savings (−) from current administration plan
Current administration plan: Current fiscal year 1971 funding level and withdrawals announced to date (150,000 out in fiscal year 1971) [3]	$11.2		$11.1	
Alternative 1: 223,000 residual force ending fiscal year 1972	11.2		9.4	−$1.7
Alternative 2: 50,000 residual force ending fiscal year 1972	11.2		5.9	−5.2
Alternative 3: Continue current withdrawal rate: all out by early fiscal year 1973	11.2		5.8	−5.3
Alternative 4: Total withdrawal January 1972 (Hatfield-McGovern amendment)	8.6	−$2.6	2.9	−8.2

[1] All of these calculations are based on troop level reductions below the actual figure of 538,000 men in Vietnam at end Fiscal Year 1969, before the 1st withdrawal was announced. Thus at the end of the latest 150,000 reduction, the level will be 273,000. Recent statements by Secretary Laird are based on troop ceilings, which were 549,000 at end fiscal year 1969 and will be 284,000 when the latest 150,000 are withdrawn. The incremental costs are the additional costs, all of which could be saved if we were not in Vietnam. All cost estimates include about $1,000,000,000 for military assistance to South Vietnam.

[2] Assumes a 7-percent price deflator in fiscal year 1972, to reflect pay and price increases.

[3] Announced by President Nixon in his televised address on Apr. 20, 1970.

Note.—This table is taken from Charles P. Shirkey, "Alternative Vietnam Withdrawal Plans and Budget Deficits in Fiscal Year 1971–72," inserted in the Congressional Record Aug. 27, 1970.

Source: Author's estimates; Arnold M. Kuzmack, "Casualty and Cost Projections for Different Vietnam Withdrawl Plan" monograph inserted in the Congressional Record, Aug. 24, 1970, p. S14076; Charles L. Schultze, "Setting National Priorities: The 1971 budget", The Brookings Institution, Washington, D.C., 1970, p. 19.

THE WAR, INFLATION, AND THE HOUSING MARKET

(By Peter T. Knight, a Ph.D. in economics from Stanford University)

INTRODUCTION

No major sector of the American economy has been more distorted by the Indochina war and the means used to finance it than residential construction. Record high interest rates have been caused by the reliance upon restrictive monetary policies and inflationary deficit finance to pay for an unpopular war. Residential construction is more influenced by interest rates than most economic activities, and of the factors influencing residential construction, interest rates are by far the most important. The monetary policies of the Johnson and Nixon administrations have succeeded in choking off residential construction and channeling the funds released into the business sector where they helped finance war production. The result of sky-high interest rates and severely curtailed residential construction is that a critical housing shortage has developed while the rate of new family formation has been rising as "war babies" produced in the post World War II "baby boom" marry and begin to have their own children.

With both mortgages and housing expensive and difficult to come by, a significant segment of our population, young married couples especially, find their dreams of owning their own homes frustrated. What they are also beginning to realize is that the housing shortage is directly attributable to the same war which the young husbands have in many cases been forced to fight against their wills, the same war which has created a massive draft resistance movement and alienated a whole generation. They have been asked not only to sacrifice years of their lives as conscripts, but also their hopes of owning their own homes. This realization is rapidly being transformed into political demands that something be done to alleviate the housing shortage, which is sure to be a key issue in the 1970 congressional elections. The McGovern-Hatfield Plan offers the best chance short of a quick negotiated settlement for ending the drain on the economy and the strain on our society imposed by a war which almost everyone now admits was a grave mistake. Following the McGovern-Hatfield plan could free sorely needed funds for new housing construction, approximately $2.6 billion in FY 1971 and $8.2 billion in FY 1972, should Congress direct that the money saved by a planned withdrawal be spent in this fashion.[1]

The remainder of this paper provides documentation and analysis to support the assertions made in the first paragraph.

1. *The principal cause of inflation was the escalation of the war in the second half of 1965 and the failure to apply normal wartime measures such as war taxes and wage and price controls.*

Most economists, including those on the President's Council of Economic Advisers, agree that the U.S. economy was operating at very close to its maximum potential in 1965, when war expenditures escalated sharply.[2] These increased military expenditures required a reduction in the goods and services which would have been available to the nonmilitary sectors of the economy in the absence of the war. Freeing the resources needed from use in the domestic economy was accomplished by a combination of deficit spending, large reductions in private investment (especially residential construction), a deterioration in the balance of payments with foreign countries (reduced exports) and some increase in taxes.[3]

The acceleration in war spending need not have resulted in inflation if sufficiently stringent stabilization policies had been followed. For example, a prompt increase in taxation as advocated by the Council of Economic Advisers in 1966 could probably have prevented it, and such a tax hike certainly would have allowed the Federal Reserve Board to pursue a less tight monetary policy. Wage and price controls, urged by many economists, might also have helped. However, even wrapping such measures in the American flag was not likely to be politically opportune in the case of an unpopular war. For three years after the initial escalation in the latter half of 1965 no major tax increase was passed by Congress. Then in June 1968 the Revenue and Expenditure Control Act, which combined a reduction in nonmilitary government expenditures with a 10 percent surtax was finally enacted.[4] Wage and price controls have not been instituted to the present day.

There is considerable agreement among economists and businessmen that war spending was the major factor throwing the economy into an inflationary spiral. In April 1968 the Committee for Economic Development, which is composed of leading U.S. businessmen, said the following in their report entitled *The National Economy and the Vietnam War:*

"The requirements for military hardware that builds up after the middle of 1965 were met without much strain, largely because inventories were ample and defense production industries had available capacity. However, the economy as a whole felt the impact of the total military demand. The defense build-up soon led to inflationary pressures. In a period of two years the value of resources devoted to national defense rose by about 50 percent. Largely as a result of this, the nation's total purchases of goods and services increased rapidly, accelerating at a rate in excess of the growth of real output. A jump in the rate of price increases inevitably followed." [5]

Similarly, President Johnson's own Council of Economic Advisers, in their 1968 *Annual Report* also noted that the inflationary spiral was linked to sharp increases in war spending.

"Around mid-1965, the growth of demand for industrial products suddenly accelerated as the direct and indirect consequences of the enlarged commitment of U.S. forces in Vietnam.

"Prices of consumer services began to accelerate, as service firms found it more difficult to obtain workers. With rising food and service prices and stronger demands for labor, upward pressures on wages intensified in both the organized and unorganized sectors. In the industrial area, the impact of demand on prices was strongest in the defense-related and capital goods sectors, where shortages of both capacity and skilled manpower were most pronounced. But prices also advanced in many other areas.

"The upward pressures on prices and wages in this period reflected both the speed of the advance and the high level of resource utilization which the economy achieved. These pressures tripped off a price-wage spiral." [6]

Deficit spending rather than increased taxes was used to finance the war and we experienced an increasing rate of inflation. Inflation is in reality one of the cruelest taxes since it strikes hardest at those least able to defend themselves—retired people living on past savings, white collar workers such as teachers and government employees, welfare recipients, and unskilled workers.

When a substantial tax increase was finally voted in 1968, inflationary expectations were so strong that even now the Nixon Administration considers increasing unemployment as the only means of restraining price increases to a tolerable level. As of July 1970, the seasonally adjusted unemployment rate had risen to 5.0 percent from 3.5 percent in December 1969.[7]

Finally the testimony by Louis B. Lundborg, Chairman of the Board of the Bank of America, the largest bank in the country, before the Senate Committee on Foreign Relations on April 15, 1970, is worth citing. Mr. Lundborg charged that "While there is room for a wide range of opinion concerning proper tax policies during this period, especially over the timing and magnitude of tax increases, and the proper role of monetary policy, *the basic cause of the inflationary forces was a sharp increase in federal spending associated with the escalation of the conflict in Vietnam.*" (emphasis added)

2. *The principal causes of high interest rates in recent years have been the heavy reliance on monetary policy and deficit spending by the federal government and the expectations of continued inflation caused by the war-induced inflationary spiral.*

No American President has dared ask Congress for war taxes for this unpopular war. As Charles Cicchetti has pointed out, "even the surtax of the late 1960's, which President Johnson proposed and later President Nixon endorsed, was presented to the American people as a fiscal device to control inflation and not as a tax to pay for the war, which was the direct cause of inflation." [8] Monetary policy was the principal tool used for restraining the economy in 1966, resulting in sharply increasing interest rates and the notorious "credit crunch" of that year.

In the subsequent two years the Federal Reserve supplied massive assistance to the money market as it struggled to adjust to excessively large demands for credit, thus temporarily delaying the worst of the problems. But as inflation continued, lenders became increasingly reluctant to place their money in fixed-income securities, since they expected inflation to continue. This resulted in further rises in interest rates. In 1969 the Federal Reserve again shifted to severe monetary restraint and the credit markets were left unassisted to deal with mushrooming demands for borrowing from both the private sector and the government. The result was skyrocketing interest rates which are still with us today. Some of the principal interest rates over the period being discussed are shown in Table 1.

3. *Federal monetary policy was successful in choking off residential construction, thus freeing funds to finance war production.*

Econometric research has provided empirical confirmation of what bankers have long known—one of the principal determinants of the number of new housing starts for single family dwellings is the rate on mortgages.[9] Other kinds of interest rates, for example those on corporate and municipal bonds, may also influence housing starts for private and public rental units. Columns 1–3 of Table 1 show that each of these three key interest rates was substantially higher in the five war years (1965–1969) than in the "peace" years (1960–65) and that in the first six months of 1970 there has been another dramatic rise.

Columns 4–7 present various indicators of residential construction activity, all of which were running at a lower level during the war years than during the "peace" years, and again the situation has deteriorated in a striking fashion in the first six months of 1970. Single unit private housing starts have shown the sharpest drop, 28.2 percent below the 1960–64 level for the first half of 1970.

In part this reflects a continuing trend toward multi-family units (mostly rental) and away from owner-occupied single family homes.

The degree to which the monetary policies of the Johnson and Nixon Administrations have succeeded in diverting loaned funds from residential mortgages to the business sector, where they helped finance war production, is shown in Table 2. During the five "peace" years, 1960–64, an average of 30.3 percent of the funds raised went into residential mortgages and 34.5 percent to business. During the war years, 1965–1969,

Footnotes at end of article.

mortgages accounted for only 21.6 percent of the available funds and the business sector absorbed 46.4 percent.

4. *The number of families in the U.S. has gone up faster during the war years than during the preceding "peace" years, while residential construction has declined, resulting in a growing housing shortage.*

Column 8 of Table 1 shows that the average annual increase in the number of families in the United States was 24.8 percent higher during the years 1965–69 than it was prior to the war escalation in 1960–64. In 1967 the first children born in the post World War II baby boom reached the age of 21. Thus during the war period there has been a spurt in new family formations as the "war babies" marry and begin to have children of their own. Coupled with the decline in residential construction during the same period, we have all the ingredients for a housing shortage.

Column 9 of Table 1 shows that the vacancy rate (vacancies to total housing units available) has dropped from an average of 3.5 percent in the period 1960–64 to 2.9 percent in the period 1965–69. The situation was worsened still further in the first quarter of 1970 (2.3%). These figures are the statistical evidence of what real estate people like to call "a very tight housing market."

FOOTNOTES

[1] For a discussion of how these estimates were arrived at see Charles P. Shirkey, "Alternative Vietnam Withdrawal Plans and Budget Deficits in FY 1971–72," inserted in the *Congressional Record* August 27, 1970, and Arnold M. Kuzmack, "Casualty and Cost Projections for Different Vietnam Withdrawal Plans," inserted in the *Congressional Record*, August 24, 1970.

[2] *The Annual Report of the Council of Economic Advisers*, 1968, page 68.

[3] See, for example, Arthur N. Okun, The Political Economy of Prosperity, W.W. Norton & Company, New York, 1970, Chapter III.

[4] In his January 1966 Budget message President Johnson did, however, request a new graduated withholding system on individual income taxes, a reversal of the scheduled reductions of excise taxes on automobiles and telephone service, and a speedup in the collection of corporate income taxes. These measures were enacted two months later. In addition, an already scheduled raise in social security payroll taxes took effect in January 1966.

[5] Committee for Economic Development, *The National Economy and the Vietnam War: A Statement by the Research and Policy Committee*, New York, 1968, page 10.

[6] Council on Economic Advisers, *Annual Report of the Council of Economic Advisers*, 1968, page 104.

[7] *Economic Indicators*, August 1970.

[8] Charles J. Cicchetti, "How the War in Indo China Is Being Paid for by the American Public: An Economic Comparison of the Periods Before and After Escalation," inserted in the *Congressional Record* August 13, 1970.

[9] Gerald L. Childs, "Progress Report on a Market Model for Nonfarm Housing," Rutgers University, June 1, 1969 (unpublished paper).

TABLE 1.—SOME KEY INTEREST RATES AND INDICATORS OF RESIDENTIAL CONSTRUCTION ACTIVITY

Year, month	Home mortgage yields (new homes) (percent) (1)	Yield on Aaa corporate bonds (Moody's) (percent) (2)	High-grade municipal bonds (Stanford and Poors) (percent) (3)	Total public and private housing starts (1,000 units) (4)	Single unit private housing starts (1,000 units) (5)	Single unit private housing starts as a percent of total private housing starts (6)	Value of residential construction component of GNP (billions of 1958 dollars) (7)	Annual increase in families (thousands) (8)	Vacancy rate (percent) (9)
Peace years:									
1960	NA	4.41	3.73	1,296.0	994.7	75.4	21.9	345	3.4
1961	NA	4.35	3.46	1,365.0	974.4	72.4	21.6	885	3.6
1962	NA	4.33	3.18	1,492.4	991.3	67.8	23.8	657	3.5
1963	5.84	4.26	3.23	1,642.0	1,020.7	63.4	24.8	438	3.5
1964	57.8	4.40	3.22	1,561.0	970.5	63.5	24.2	399	3.5
War years:									
1965	5.76	4.49	3.27	1,509.6	963.8	63.4	23.8	444	3.5
1966	6.25	5.13	3.82	1,196.2	778.5	66.8	21.3	786	3.3
1967	6.46	5.51	3.96	1,321.9	843.9	65.3	20.3	769	2.9
1968	6.97	6.18	4.51	1,545.5	899.5	59.7	23.3	676	2.5
1969	7.81	7.03	5.81	1,499.9	810.6	55.0	23.3	727	2.2
Average: 1960–64	[1] 5.81	4.35	3.36	1,471.4	990.3	68.9	23.3	545	3.5
Average: 1965–69	[1] 6.65	5.67	4.27	1,414.6	859.3	62.5	22.4	680	2.9
January to June 1970	[2] 8.41	8.01	6.69	[3][4] 1,323.0	711.0	[1] 57.0	[4] 20.4	N.A	[5] 2.3
Percentage change from 1960–64 average:									
1965–69	14.5	30.3	27.1	−3.9	−13.2	−9.3	−3.9	24.8	−17.1
January to June 1970	44.8	84.4	99.1	−10.1	−28.2	−17.3	−12.5	N.A.	[5] −34.3

[1] 1963–64 average is the base.
[2] January–May.
[3] Annual rate.
[4] Seasonally adjusted annual rate.
[5] 1st quarter 1970.

Sources (by column):
1. Federal Reserve Bulletin various issues—FHLBB effective rate series, reflects fees and charges as well as contract rate.
2–6. Economic Indicators, various issues; 6 is calculated by author from data in Economic Indicators.
7. Annual Report of the Council of Economic Advisers, 1970, and Survey of Current Business, U.S. Department of Commerce, Bureau of the Census, series P-60, No. 70, July 16, 1970.
8. Increases are calculated from March of the given year to March of the next year.
9. Vacant housing units for rent or sale as a percent of total available units. Calculated from U.S. Department of Commerce, Bureau of the Census, Series HIII, No. 43 and 55. 1969 and 1970 figures directly from Bureau of the Census.

TABLE 2.—PERCENTAGE OF FUNDS RAISED, NONFINANCIAL SECTORS OF THE U.S. ECONOMY, 1960–69

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1960–64 average	1965–69 average	Percentage change 1960–64 to 1965–69
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	0.0
U.S. Government	−5.7	15.4	12.9	6.9	9.6	2.4	5.1	15.7	13.8	−4.1	7.8	6.6	−15.4
All other others total	105.7	84.4	87.1	93.1	90.4	97.6	94.7	84.3	86.3	104.2	92.1	93.4	1.4
Residential mortgage	32.0	29.2	28.8	31.7	30.0	26.8	21.2	18.4	19.2	22.6	30.3	21.6	−28.7
Business	37.9	34.8	34.0	33.6	32.4	42.0	49.5	45.9	40.1	54.5	34.5	46.4	34.5
Equity	4.6	6.0	1.1	−.3	2.4	−.4	1.3	2.9	−.7	5.1	2.8	1.6	−42.9
Bonds	9.5	9.8	8.5	6.8	6.0	7.7	14.8	18.0	13.2	15.1	8.1	13.8	70.4
Mortgages	10.6	10.9	11.3	11.6	8 8	9.4	11.4	8.2	8.9	8.4	10.6	9.3	−12.3
Other loans	13.3	8.1	13.1	15.6	15 2	25.4	21.8	16.9	18.7	26.0	13.1	21.8	66.4
State and local governments	14.6	11.7	10.7	10.6	9.0	10.8	9.3	9.6	10.5	10.1	11.3	10.6	6.2
Households[1]	16.0	3.4	9.6	11.3	11.7	14.2	12.7	5.6	13.4	13.0	10.4	11.8	13.5
Foreign	5.1	5.3	3.9	5.9	7.3	3.7	2.2	5.0	3.1	4.0	5.5	3.6	−34.6

[1] Not including mortgage debt.

Source: Calculations by author from data in Federal Reserve Bulletin, various issues.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 6 minutes to the Senator from Michigan and more time if he needs it.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I know and appreciate the genuine concern, the sincerity, and the deep convictions of the sponsors and supporters of the pending amendment.

Along with most Americans and the President, I share the abiding desire of the sponsors to see an end to our involvement in the Vietnam war. I, too, want to see our troops come home as soon as possible from this unpopular war.

This has been a long, costly and frustrating war. In addition to the tragic losses on the battlefields, it has produced agonizing dissent here at home.

It may be appealing—but, I suggest

most respectfully, that it is misleading, even deceiving—to suggest that the war can be ended simply by passing an amendment. Yet, that is the proposition before us, and on which the Senate will vote tomorrow.

I am disturbed about this proposal for a number of reasons. It holds out promises to the American people which may, or may not, be realized. If the amendment were adopted, our action would be misunderstood by our friends throughout the world and in Asia particularly. In addition, and of even more concern, it would be misinterpreted and could lead to miscalculations on the part of the enemy.

This proposal ignores the harsh realities of the world in which we live and the difficult task of disengaging from the war in Vietnam.

Even the sponsors of the amendment have recognized this to some extent, for they have produced one version after another of the amendment.

As originally proposed, the amendment would have required the withdrawal of all American forces from Vietnam by June 30, 1971. In what the press has interpreted an effort to attract more votes, the rewritten amendment was rewritten within the last week to extend the withdrawal deadline to December 31, 1971.

In still another change, which also was interpreted as an effort to win more votes, the amendment was revised again just before it was made the pending business before the Senate.

The latest version would give the President an additional 60 days on the deadline for withdrawal—making it March 1, 1972—if he found that American troops in Vietnam were exposed to unanticipated clear and present danger.

It seems rather obvious that there has been almost a desperate effort to make palatable an unpalatable product—to make acceptable the unacceptable.

In the Senate cloakrooms and elsewhere the revised amendment is being appropriately referred to as "the amendment to extend the war." And that is what it could be—in either its original or its revised form.

At best, the amendment is superfluous. At worst, it is mischievous.

It is unnecessary because the President has turned the war around in Vietnam and American troops are coming home on an orderly basis that protects the safety of American forces as well as our national interest.

Since the Nixon administration took office on January 2, 1969, more than 115,000 troops have been withdrawn.

Under a schedule made public by the President, an additional 150,000 troops will be withdrawn by next April 30, and 50,000 of them by October of this year.

President Nixon has kept his promises. Indeed, he has moved faster than many dared to hope. He is moving on a course toward full and complete disengagement.

The proposed amendment is mischievous because it intrudes unnecessarily on the flexibility that the President needs as Commander in Chief of the Armed Forces and on his conduct of the delicate diplomatic moves which could lead to a negotiated settlement of the war.

As the showdown on this issue approaches, it is well to recall a statement made by President Nixon on September 26, 1969:

> It is my conclusion, that if the administration were to impose an arbitrary cutoff time—say, the end of 1970 or the middle of 1971—for the complete withdrawal of American forces in Vietnam, that inevitably leads to perpetuating and continuing the war until that time and destroys any chance to reach the objective that I am trying to achieve of ending the war before the end of 1970 or before the middle of 1971.

If we should tie the President's hands by law to a fixed and publicly proclaimed timetable schedule—it would serve only to make an orderly withdrawal more difficult—and quite possibly, more dangerous for our men in Vietnam. Surely, we do not wish to force a Dunkirk-type withdrawal from the beaches of Vietnam—and yet, that could be the effect if such a decision were to be cast in legislative concrete.

Reference has already been made to the disastrous impact that adoption of this amendment would have on the peace talks which have been resumed in Paris.

No one on the other side of this debate has ever provided a satisfactory answer to this question: Why would an invading army negotiate a settlement once the defenders have announced a timetable for complete, unilateral withdrawal?

To put it simply: Adoption of the proposed amendment would trumpet loud and clear to the Communist enemy the message that he need not negotiate at all, that he could attain by default what he has not been able to win on the battlefield.

Mr. President, in addition to other objections to this amendment, it would also have the effect of disrupting our Vietnamization program which has attained, in the judgment of Secretary of Defense Melvin Laird, a high degree of momentum. Vietnamization of the war is the surest way of speeding the withdrawal of American forces, and it seems to me that we should be encouraging—not disrupting—our Vietnamization program in every practical way.

President Nixon is in the process of winding down our participation in the Vietnam war. He is bringing American boys home. President Nixon deserves—and has earned our support. I am confident the Senate will register that support by voting on this amendment.

Mr. STENNIS. Mr. President, I yield 6 minutes, or such time as he may need, to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, Senators are ambassadors from their States. Senators may know more of irrigation, grazing, urban rehabilitation, or may feel they do, than others. Some Senators, indeed, feel they know more about how to conduct a war than those entrusted with its conduct. They are entitled to their opinion, although I suspect it is not universally shared.

In my opinion Senators just cannot negotiate, in freehand style, their own schedule for disengagement from this war.

This is an unpopular war. There are no prowar Senators. So far as I know, there is no respectable body of prowar Americans. We are all antiwar; we are all for disengagement; we are all for getting out. Some of us believe competent people are engaged in that process and, indeed, I am satisfied that is exactly what the Commander in Chief is doing.

Mr. President, the many versions of this amendment, offered in succession, and often in contradiction to the full-page ads on the same amendment, have compounded confusion upon confusion in an effort to pick up support from one person here or one person there.

Certainly the many versions of this amendment are more revealing, contrasted to the one of disengagement presently being pursued and adhered to on schedule by the Commander in Chief.

This amendment, if agreed to, would cast into limbo any trust other nations would have in us, and notify negotiators from Hanoi there can be no possible peace until the end of next year. So why, indeed, should anyone pursue any possibility of peace? Why should the dove of peace which hovers like a halo over some advocates of this amendment, find any nesting place in Paris when the notice goes out that there is no peace, there can be no peace, there will be no peace because on a certain date we are leaving, horse, foot, and dragoon, bag and baggage, and on that date nothing remains but for the enemy to pick up the marbles, reap the gains, close the doors on the free world and say to the Congress of the United States "much obliged."

The amendment is, as has been said, an attempt to reassert congressional war-making power. It is far too restrictive and impractical. It is an attempt to accomplish more than withdrawal. Any firm and public completion date of total U.S. withdrawal would severely limit our flexibility in reacting to North Vietnamese threats and possibly temporary setbacks in Vietnamization. The latest date for total withdrawal—although I point out the amendment is still open to amendment and new versions may yet occur—so far given us is too great an acceleration to allow the South Vietnamese to achieve a sufficient capability in all requisite fields to cope with the North Vietnamese.

Training of Vietnamese in complex skills—pilots, maintenance, operation of sophisticated equipment, and so forth—will not be completed by then; such training cannot be accelerated significantly.

The amendment precludes a military assistance advisory group—MAAG—considered necessary to insure continued progress by the South Vietnamese. While not large, this group of U.S. technicians is needed to assist the Vietnamese in managing and logistically supporting the large military structure the Vietnamese have built in a short time. Withdrawing these technicians and advisers prematurely may significantly reduce the capability of South Vietnamese forces.

A public fixed schedule of withdrawals likely would adversely affect chances to get U.S. POW's back. Our military forces in Southeast Asia give us some leverage

in negotiations for better treatment and release of U.S. prisoners in enemy hands.

The McGovern amendment would, if enacted, undermine the Paris negotiations by bringing all North Vietnamese goals in Southeast Asia within reach. Further, it would reduce U.S. international credibility and bring all U.S. obligations and treaties into immediate review by our allies; it would be clear that these obligations had unspecified time limits which are apt to grow shorter if subject to pressure.

In other words, what nation would ever make a treaty with us again if it knew that any treaty made with the United States, after it had been confirmed by the Senate, might be subject to some Senate whim or some public pressure or some election campaign, or some other motivation which perhaps is not now present, which would cause the Senate of the United States to withdraw and say, "We are sorry we made it; we are going to say goodby to the obligation. We are going to reverse the agreement and we are going to unilaterally quit?"

Now I yield to the distinguished Senator from South Dakota.

Mr. McGOVERN. Let me say on that point——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT. May I have 2 additional minutes?

Mr. STENNIS. I yield 2 additional minutes to the Senator.

Mr. McGOVERN. Is the Senator saying we would be violating a treaty if we withdrew our forces from Vietnam?

Mr. SCOTT. The Senator is saying that we would be violating something which is more inviolate than a treaty, and that is our commitment to our own forces in Vietnam, and is citing that if we were to withdraw under the hardest kind of commitment, which is a commitment on the field of battle, under orders from the U.S. Senate, then no nation would see fit to believe that a future treaty could not be abrogated or substantially altered by Senate amendment.

Mr. McGOVERN. I cannot see how the Senator can feel that the United States has gone back, or under the terms of this amendment would go back, on any commitment we had with the people of South Vietnam. We never at any time, as I understand it, made any commitment to stay there indefinitely. We said we would assist them, and we have done that, it seems to me, beyond any reasonable criterion of generosity, investing the lives of tens of thousands of Americans and billions of dollars. It seems to me this amendment is well within our constitutional processes——

The PRESIDING OFFICER. The time of the Senator has again expired.

Mr. STENNIS. Mr. President, I yield the Senator 2 minutes.

Mr. McGOVERN. The Senator from South Dakota is proposing, under the terms of this amendment, that it is in our interest as a nation to set a definite timetable so that our friends in Vietnam and our enemies in the North, and others, will know what the limits of our commitment are.

Mr. SCOTT. Is the Senator contending that when we went into Vietnam, or as we pursued a course ratified by several Presidents, at any time we told the South Vietnamese we would be out of there by December 31, 1971?

Mr. McGOVERN. No; I am not suggesting that at all. I think they are entitled to a fair warning. That is why I think this date ought to be at some future time. But that is 16 months hence. There is also the escape provision to meet any emergency situation that might develop.

I suggest that this is not a "bugging out" or running out on our commitment. We have been more than generous to the people of South Vietnam. What we propose under the amendment is to give them a reasonable time to get their house in order, if they wish, and take over the struggle, or, failing that, work out an arrangement with those that challenge them in that field.

Mr. STENNIS. Mr. President, I yield an additional 2 minutes to the Senator.

Mr. SCOTT. May I say, in conclusion, that I know of no promise made by the President which has not been kept. I myself hope that we can accelerate withdrawal even further. I would like to see volunteers instead of draftees ultimately. I would like to see many things done. But, above all, I would not like to see us take the credibility of the United States and toss it up for grabs in world opinion by a decision that on a certain calendar date the Commander in Chief is directed by the Senate of the United States to stop whatever we are doing, even though at that time we may be engaged in a difficult military situation, or even though at that time our prisoners of war are not released—and, as I understand it, the distinguished Senator from South Dakota is not willing to condition the termination upon the release of the prisoners. If he were, he might pick up some help there. I do not know——

Mr. McGOVERN. The amendment has a provision that funds will not be cut off for that purpose, and it gives the President, as I have said, the option of exercising 60 days' additional time. If he feels that is not sufficient, he can come back and ask the Congress for additional time.

Mr. SCOTT. I can only say, with all due respect, that that, to my mind, is hardly the way to get our prisoners of war back.

Mr. McGOVERN. We are not getting very many back under our present procedures.

Mr. SCOTT. Our last leverage, our last best hope, of getting those prisoners out would not be served by withdrawing all of our forces under a calendar restriction, because, as the Senator has said, if we did not get them out when his magic date on the calendar arrives—the Senator has had several magic dates; if this last magic date does not suffice, we have another 60 days in which the President can say to the Congress——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT. Mr. President, may I take the liberty of yielding myself 2 additional minutes? I ask unanimous consent to do so.

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Mississippi, I ask unanimous consent to yield 2 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Yes, the President may come to the Congress and say, "I am sorry, our best leverage is gone; our prisoners are still there; we did not make any provision for them. Will the Congress give us 60 days more to get the prisoners of war out?" That will be read in Hanoi as it is in Washington, and the prisoners of war will not come out.

Mr. McGOVERN. I cannot conceive of the President's permitting American prisoners of war to remain after our troops are withdrawn.

Mr. SCOTT. That is what the amendment says.

Mr. McGOVERN. It does not require that.

Mr. SCOTT. It does not require that. It permits it.

Mr. McGOVERN. It does not require that at all, and I cannot see the Senate of the United States denying a request of the President to do all that was necessary to bring about the release of the prisoners.

Mr. SCOTT. But the Senator's amendment does deny the request of the President in the first instance.

Mr. McGOVERN. It does not.

Mr. SCOTT. Yes, it does; to continue with the deescalation of the forces, and if the Senate will deny the President the right to permit him to continue winding down the war on his schedule, then the Senate can and perhaps would deny the President the 60 days additional to get out the prisoners of war, because the Senate is composed of reasonable men, and the Senate would know they would not get them out in 60 days; they would not have any leverage to get them out with.

Mr. McGOVERN. Mr. President, the Senator is completely misreading the amendment. There is nothing in the amendment that restricts the power of the President to bring about the relief of prisoners. There is no way that I know of that we are ever going to get the prisoners out of there, if we continue on our present course.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCOTT. I ask for 2 more minutes.

Mr. BYRD of West Virginia. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Mississippi has 5 minutes, the Senator from South Dakota 15.

Mr. McGOVERN. I had promised the Senator from Maine 15 minutes. Will he yield back 2 minutes of it, to complete the remainder of the colloquy?

Mr. MUSKIE. Yes; I would be delighted to do so.

Mr. McGOVERN. I yield the Senator from Pennsylvania 2 minutes so that we can complete the colloquy.

Mr. SCOTT. I will conclude with this inquiry, if the Senator will permit: How does the Senator from South Dakota plan to get the prisoners of war out of North Vietnam?

Mr. McGOVERN. I think the burden for that answer ought to be on the Senator from Pennsylvania.

Mr. SCOTT. I pass it to the Senator from South Dakota, whose amendment it is.

Mr. McGOVERN. Mr. President, I intend to comment on that later, but I remind the Senator that our prisoners have now been held for a number of years. There is no evidence that our present course is ever going to effect the release of a single prisoner. I think they are being held as hostages of the policy that has not produced an end to the war.

Here we are offering an alternative proposal which we think will bring about an end to the fighting. We feel that thus we have reduced the reason for those prisoners being held. When we make it clear to the other side that our forces are coming out, I think when that date is announced, it will increase the likelihood of negotiations getting underway.

There are two things the other side has said block them from negotiating with us: First, the presence of the Thieu-Ky regime in Saigon, and our backing of that regime, and second, our refusal to agree to the full withdrawal of our forces.

By meeting those two objectives, as this amendment would do, I think for the first time we shall have opened up the possibility for release of the prisoners, who have not been released under the present policy.

Mr. SCOTT. I thank the Senator for the admission that there is no plan for the release of the prisoners.

Mr. MUSKIE. Mr. President, I support the pending amendment to the military procurement bill, H.R. 17123.

It is time to make clear our commitment to end the war in Vietnam.

And this amendment would do so—at the same time as it would preserve all of the President's constitutional powers.

The cardinal issue is whether our involvement in the conflict in Indochina must be regarded as open ended and indefinite in duration, or whether the time has come to establish a definite deadline for our military participation there.

Those of us who support this amendment believe that the best interests of the United States—both at home and abroad—would be served by its enactment.

Those who oppose it, including the administration, insist that our military presence must continue while the South Vietnamese attempt to win the military victory which has eluded our own efforts for so many years.

I submit, however, that the advantages of a clearcut withdrawal policy would be substantial, not only in terms of our own domestic concerns, but in terms of peace in Vietnam itself.

Control of our conduct would clearly be in our hands, not those of the North Vietnamese or the South Vietnamese. And a climate for meaningful negotiations might finally be established.

The administration has argued that a publicly announced withdrawal timetable would give Hanoi no incentive to negotiate seriously in Paris. But the negotiations are already at a virtual standstill and there seems to be no prospect for improvement so long as Vietnamization remains our only policy.

The administration has also argued that a publicly announced timetable would permit Hanoi to attack our forces once they were sufficiently reduced in size. But it seems obvious that Hanoi could do so anyway once enough Americans are withdrawn, whether or not a timetable for their withdrawal is announced.

And finally, the concept of a withdrawal timetable has been criticized as leading to an eventual bloodbath in South Vietnam. However, nothing in our present policy can guarantee against the possibility of reprisals once we are out of Vietnam in any event. For example, even were the Communists to accept the President's proposals for free elections and come to power through this means, nothing in our policy could guarantee against reprisals at that point. Besides, is it not clear that the war itself is a bloodbath and that this certainty must be weighed against any speculative possibility?

In formulating our withdrawal plan, we must, of course, accept the responsibility for evacuating and resettling those who wish to leave Vietnam.

On the matters we most care about—the return of our men held as prisoners of war and the safety of our troops as we withdraw—there is every likelihood of reaching an understanding with Hanoi once we indicate our willingness to set a firm date for our withdrawal.

Prospects for a broader political settlement in Vietnam may also improve. For the generals who control the South Vietnamese Government may seriously consider sharing their power once they realize that their weakness can no longer keep us in Vietnam indefinitely. And once the leaders in Hanoi know we are leaving, they may also be ready for serious negotiations as long as we can exercise some leverage at the peace talks in Paris.

No one can argue that our enormous contributions to South Vietnam over a 7-year period have fallen short of the commitment we originally made.

The basic question now is whether a specific deadline should be set for the withdrawal of all U.S. military personnel from Vietnam, not what that date should be. The McGovern-Hatfield amendment provides a realistic and sensible deadline of December 31, 1971.

That amendment represents no challenge to the President's constitutional responsibilities as Commander in Chief. It does not dictate the day-by-day tactics to be employed to protect our forces while military operations continue. But is does reflect Congress' determination to respond to its constitutional responsibility of deciding how long these forces will be committed to that war.

Nor does the amendment constitute a political challenge to the President. Rather, it offers to share the political responsibility for the hard decision that must be made. Whatever date for withdrawal is set, there is no easy way out of Vietnam.

In my opinion, the establishment of a specific deadline is the best among nothing but bad choices, and to make the choice will involve political costs and political courage.

But the issue is one that transcends purely political considerations. It must not be approached from the standpoint of possible political advantage; for only by distorting the motives of those who support the establishment of a deadline can this cardinal issue be turned into a partisan political debate.

A consideration of the issue on the merits is required. And such consideration, in my judgment, can lead only to affirmative support of the principle set forth so clearly in the McGovern-Hatfield amendment.

Mr. President, I yield back the balance of my time.

Mr. McGOVERN. Mr. President, before the Senator yields the floor, I would like to commend him on what I think has been one of the most thoughtful statements yet made in support of the amendment.

The Senator made one statement that especially interested me, when he said that there is no really good solution to this war.

I think that some years ago it was Mr. Lippman who said:

> You can't back away from a mistake with great glory and grace.

But, recognizing the fact that no matter how we settle this war, it will probably draw some objections in some quarters, a good many people will not feel happy with any kind of solution short of a total victory. That being the case, is there not some advantage in a democratic society such as ours of spreading the responsibility for that decision as broadly as we can—in short, of involving Congress, so that Senators and Representatives, representing every district in this country, can vote on the question of whether they would like to see American military operations continued or terminated at a definite date?

It seems to me that, from the standpoint of the President, it would be an advantage to him to share this burden and this responsibility as broadly as he can with the elected representatives of the people.

Would not the Senator think that that is one of the ways of minimizing the danger of scapegoating that might set off division and bitterness in our national life after the withdrawal of troops from Indochina?

Mr. MUSKIE. I agree with the Senator.

I should like to add a few thoughts that buttress the point he is making.

First of all, I do not know of anybody's plan, including the administration's, that will result in a withdrawal with the tidying up of all the loose ends. The administration has told us that it has an irrevocable policy of complete withdrawal. But whenever that comes, there will be a great deal of untidy loose ends that will create political problems for the government in Saigon, for the government in Hanoi, and for ourselves. So that the question of tidying up is a question that I think has no relevance to the amendment before us.

The second point I should like to make

is this: If we were to accept a deadline of this kind, I think that almost immediately we would begin to reap some of the benefits of the withdrawal itself. These benefits, as I see them, would be these: First of all, we could begin immediately to heal the divisions in this country which have been created by this tragic war and its consequences for us here at home. Once the country understands that the end is in sight, we could begin to act as though it had arrived, not only with respect to our attitudes toward each other but also with respect to planning the future commitment of our resources here at home and elsewhere.

Second, with respect to nations around the globe, I suspect that the setting of such a deadline would result in an almost audible breathing of relief throughout the world, especially among our friends, as they come to understand that their great friend and ally, the United States, had made the tough decision to cut off its involvement.

So I think that the beneficent effects upon our relationships with other countries around the world would be most useful.

Finally, with respect to the people of Vietnam themselves, it seems to me that such a clear-cut target would have less repercussions.

Mr. McGOVERN. I again commend the Senator on his excellent statement.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. How much time remains?

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired. The Senator from Mississippi has 5 minutes remaining.

Mr. STENNIS. I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, the focal question appears to be who shall make the determination, Congress or the President, with reference to peace in South Vietnam and the rate of withdrawal and when they may come about.

Some years ago, in his renowned "Commentaries on the Constitution," Justice Joseph Story said:

> Of all the cases and concerns of government, the direction of war most peculiarly demands those qualities, which distinguish the exercise of power by a single hand. Unity of plan, promptitude, activity and decision, are indispensable to success; and these can scarcely exist, except when a single magistrate is entrusted exclusively with the power. Even the coupling of the authority of an executive council with him, in the exercise of such powers, enfeebles the system, divides the responsibility, and not unfrequently defeats every energetic measure. Timidity, indecision, obstinacy and pride of opinion, must mingle in all such councils, and infuse a torpor and sluggishness, destructive of all military operations.

Mr. President, I believe that summarizes very well the basic argument. Some one person must speak for America. Some one person must speak for our country. Some one person must negotiate.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. STENNIS. I yield 1 additional minute to the Senator from Kansas.

Mr. DOLE. It appears to me that whether that person be a Republican or a Democrat, whether it be this year or next year or 10 years ago or 10 years hence, that one person must be the Commander in Chief, the President of the United States.

Despite the good intentions and despite the wishes of every Member of this body that the war in South Vietnam end and end quickly, we must recognize that only the Commander in Chief can bring about peace and can negotiate peace and bring an honorable end to the war in Vietnam. To impose a timetable on the Commander in Chief and on the President would do a disservice not to Richard Nixon but to the Office of the President and to the President in his efforts for a just and lasting peace; and, above all, it would serve notice on our allies around the world that we will cut and run, that we do not honor our commitments.

Therefore, I strongly urge that the amendment be rejected.

Mr. STENNIS. Mr. President, reference has already been made to this New York Times editorial, which has an analytical question and comment. I want to read one sentence:

> The basic question remains, however, is this amendment the right one either to redress the imbalance of power in the government or to advance the prospects for American withdrawal and peace in Vietnam?

It answers that question "no" in both instances. I think that is a very fine summary.

In addition, this amendment, hardened into law, would give away to the other side every possible advantage that we could possibly have. It would take all the judgment and discretion away from the man who has to speak and has the responsibility of negotiating for our side, for the people of the United States.

I am certain in my mind that the majority of the Members of this body never will be willing to walk up here and say, regardless of everything else, "I am going to take away what discretion and judgment and consideration the President of the United States has; I am going to take it away from him and write it into hard law." That must not happen and will not happen.

Mr. President, I judge our time is up. We shall have 1 hour tomorrow. I yield the floor.

OVER 10,000 IN AUSTIN, TEX., SIGN PETITIONS FOR HATFIELD-McGOVERN AMENDMENT

Mr. YARBOROUGH. Mr. President, I have received petitions in favor of the Hatfield-McGovern amendment from over 10,000 Texans from the city of Austin. I hold these petitions in my hand, and exhibit them in the Senate for the inspection of any Senator. There are 439 sheets of names, generally with 25 names per page, and the names are followed by addresses of the signatories.

Each separate sheet of these petitions begins with this paragraph:

> We, the undersigned, in support of "The Amendment to End the War," petition the President and Congress to terminate United States involvement in Vietnam by June 30, 1971.

The amended Hatfield-McGovern amendment calls for the termination of American involvement in the Southeast Asian war by December 31, 1971.

These petitions were gathered by representatives of the University of Texas branch of "Outreach" and given to Representative JAKE PICKLE of that District to be given to Senator McGOVERN or Senator HATFIELD, sponsors of this amendment.

I am a cosponsor of this amendment, and feel that I should call the attention of the entire Senate to these petitions in support of the Hatfield-McGovern amendment, from my home city of Austin, Tex.

This 3-inch high stack of petitions represents such tremendous support of the amendment that I am tempted to place all of the names and addresses in the CONGRESSIONAL RECORD, as I have often seen voluminous petitions printed in the CONGRESSIONAL RECORD. However, I have been informed that to print these petitions with the more than 10,000 names on them would consume about 75 pages in the CONGRESSIONAL RECORD, which, at $128 a page, would cost the taxpayers approximately $9,600. As much as I would like to exhibit to the Senate this support for the Hatfield-McGovern amendment, I will forgo placing these 10,000 names from Austin, Tex., in the RECORD to save the taxpayers money—parenthetically, the cost of placing the names of these 10,000 Austin, Tex., citizens who favor the termination of the war in Vietnam in the RECORD—about $9,600—is about one-fifteenth of the cost to the taxpayers of killing one Vietcong, which costs the taxpayer about $146,000.

I ask unanimous consent to have printed in the RECORD the letter from Representative JAKE PICKLE by which these petitions were transmitted to me.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 17, 1970.

Hon. RALPH W. YARBOROUGH,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR: Last Friday in my Austin office, I had the pleasure of visiting with three representatives of the University of Texas branch of "Outreach". At that time, they officially presented me with the attached petitions bearing the names of approximately 10,000 students and local residents in basic support of the McGovern-Hatfield Amendment.

During the course of the conversation, they requested that I make the petitions available to either Senator McGovern or Senator Hatfield. I told them that I would be happy to do so, and that I would ask that you forward the names on, particularly since you are our senior Senator and these are your constituents also.

The outgoing President is Mr. Ray Flugel, 1714 East Woodward, Apartment No. 212, Austin, Texas; and the new President is Bob Hall, 4200 Avenue A, Apartment No. 207, Austin, Texas.

Thank you for your assistance.

Sincerely yours,

J. J. PICKLE.

Mr. McGOVERN. Mr. President, I should like to take this few moments to

thank the Senator from Texas for bringing these petitions to the attention of the Senate. He may be pleased to know that without any strenuously organized effort, something over 2 million names have come in from all over the country attached to petitions of that kind. My guess is that there are many times that number of petitions moving around the country in various towns and cities in the States across this country. When I was in my home State a few months ago, I ran into petitions everywhere I went. It is an encouraging outpouring of support and I commend the Senator from Texas for bringing his petitions to our attention.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HUGHES). Under the previous order, the Senator from Illinois (Mr. PERCY) is now recognized for 30 minutes.

S. 4305, S. 4306—INTRODUCTION OF BILLS RELATING TO VETERANS

Mr. PERCY. Mr. President, I have two issues to speak on today. The first deals with two veterans' items which the President called for the elimination of in a message to Congress on February 26, 1970.

Mr. President, on August 6, 1969, these proposals were submitted to the Congress, and referred to the Finance Committee where they have seen no action, and have not been introduced as legislation to the Senate. In a time when we face a deficit as large as $10 billion, it is my conviction that we should act promptly and responsibly to cut back on needless expenditures. It was for this reason that I decided to identify areas with fiscal 1971 budget where $4 billion could be saved. With these two items today of $100 million, I have now identified areas amounting to $1.7 billion.

Mr. President, I will continue to search out those areas of excess in the budget, and I urge the Congress to act swiftly and favorably on these and other areas.

These two issues I have spoken of today are an excellent example of money misspent. This $100 million could have been used to upgrade veterans' hospitals or for other higher priority needs. Instead, it has been used needlessly and thus wastefully. It is the duty of the Congress to see to it that the taxpayer's money is not spent unwisely, and that money be saved wherever feasible at a time when we face a large budget deficit. This is my goal, and I hope and believe that it is the goal of every Member of this body.

Mr. President, on February 26 of this year, President Nixon proposed to the Congress areas in the budget that should be reduced, terminated, or restructed. Many of these proposals are included in the Federal Economy Act of 1970 which is currently pending before various Senate committees including the Finance Committee, the Commerce Committee, the Agriculture Committee, and the Labor and Public Welfare Committee.

However, certain of the President's proposals were not included in this bill. In my search for areas where we can cut Federal spending by as much as $4 billion, in fiscal 1971, I believe that we should pay particular attention to those areas that the administration itself has identified as wasteful.

Consequently, today I am introducing two bills which, when enacted, will save $100 million. I ask unanimous consent that these two bills be printed in full at the conclusion of my remarks in the RECORD.

The PRESIDING OFFICER (Mr. HUGHES). The two bills will be received and appropriately referred; and, without objection, will be printed at the conclusion of the Senator's remarks as requested.

Mr. PERCY. Mr. President, those bills deal with certain veterans benefits that the administration has identified as wasteful.

In 1926, tuberculosis was a dread disease. Few persons suffering from TB could be expected to live more than 20 years. In the continental United States in 1926, the death rate from respiratory TB was 76.6 per 100,000 population. Medical authorities contended that those with arrested TB did not have and would never have the strength to meet the demands of their previous employment and hence that a significant curtailment in economic activity was required to avoid recurrence of the disease. Faced with these facts in 1926, the Congress decided to compensate veterans whose service-connected TB had been arrested. Since the disability was actually a recognition of an earlier disease and a potential of a future disease, the rating of disability and the payment of compensation did not fit neatly into the schedule then employed by the Veterans' Bureau. Thus, the Congress choose to compensate these veterans with a statutory award consisting of a minimum monthly rate of compensation.

In 1949, the Congress enacted into law provisions that designate the following disability ratings: a 100-percent rating for 2 years following the arrest of the disease, a 50-percent rating for the succeeding 4 years without the necessity of establishing any physical or economic impairment, and a 30-percent rating for a further period of 5 years. This section of law also provides a permanent 30-percent rating for veterans who had far advanced lesions, and a 20-percent permanent rating for veterans whose disease had been moderately advanced if there is continued disability.

Since the time of the passage of this legislation, medical science has made tremendous advances with respect to the treatment of this disease. Modern methods of treatment have been so successful that the death rate from this disease has been lowered to a point of relative insignificance. For example, in 1965, the death rate from pulmonary TB in the United States was 3.8 per 100,000 population. In addition, data now available show no unusual residual impairment in cases of arrested TB. Following the modern course of treatment, these individuals are able to return to their homes with assurance of normal industrial acceptance and generally to full-time employment. Recurrence of the disease is not anticipated.

Considering these medical advances, the Veterans' Administration, several years ago, requested a number of medical authorities in the field of tuberculosis to study the present situation with respect to the disease. Following many months of deliberation, these consultants concluded that statutory awards are medically unsound, and disability ratings assigned to the disease should be related to demonstrable physical impairment.

This is obviously the correct conclusion. From the standpoint of equality, veterans with arrested tuberculosis should be provided compensation for their average impairment on the same basis as is used for those with other diseases and injuries. A statutory rate is not based on impairment, and is thus discriminatory as it represents preferential treatment for this special class of veterans. It provides them compensation without requirement of disability.

Last year, the Congress enacted Public Law 90–493. This law abolished special compensation for future cases of arrested TB. However, there are still about 44,000 individuals now receiving compensation for arrested TB. The bill I am introducing today would resolve this inequity. Statuatory disability would no longer be granted; compensation would only be granted on the basis of disability. By enacting this legislation, an annual savings of $46 million could be realized.

In this instance, the Congress must catch up with enlightened and advanced medical knowledge and take this opportunity to provide equitable compensation for all veterans while at the same time saving $46 million.

Mr. President, the second bill I am introducing today deals with the cost of burial expenses of veterans with wartime service. In the past 20 years, social security and other legislation has been enacted which tends to duplicate the benefits provided under the VA law. Under current law the VA provides $250 for such burial expenses. This legislation would limit the VA payment to the difference between $250 and the amount of various non-VA benefits due to each veteran's survivors.

This provision dates back to the War Risk Insurance Act of 1917. The historical purpose of this burial allowance was to avoid the burial of war veterans in a potter's field. However, as other Federal benefit assistance programs have been adopted, or broadened, for various elements of the general populace, the need for a special burial allowance for veterans to avoid burial in a potter's field has decreased, and the problem of duplicate Federal benefits directed toward the same purpose has arisen.

Burial and funeral allowances, or lump-sum death payments, are now paid under many different provisions of law, which include the Federal Employees' Compensation Act, the Social Security Act, and the Railroad Retirement Act.

This bill would limit the payment of the burial allowance to the difference between the amount of similar purpose benefits paid by the United States, and $250. It still would insure the payment of at least $250 in Federal burial and funeral expenses benefits.

This bill would in no way defeat the historical purpose of the burial allowance. It would, however, eliminate dupli-

cate payments by the Federal Government for the same purpose, and it would result in annual savings of $54 million.

The bills, introduced by Mr. PERCY, were received, read twice by their titles, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 4305

A bill to amend section 902 of title 38, United States Code, to eliminate certain duplications in Federal benefits now payable for the same, or similar, purpose

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 902 of title 38, United States Code, is amended to read as follows:

"§ 902. Funeral expenses

"(a) Where a veteran dies—

"(1) of a service-connected disability; or

"(2) who was (A) a veteran of any war; (B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or

(C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;

the Administrator, in his discretion having due regard to the circumstances in each case, may pay a monetary allowance (hereinafter referred to as a 'burial allowance'), which does not exceed an amount computed as provided in subsection (b) of this section, to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term 'veteran' includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.

"(b)" The maximum burial allowance payable under this section in any one case shall be $250 reduced by any amount payable under section 202(i) of the Social Security Act (42 U.S.C. 402(i)) or any other Act providing for the payment of expenses of funeral, transportation, and interment.

"(c) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of his death, or because of any contribution from any source toward the burial and funeral expenses (including transportation), unless the amount of expenses incurred is covered by the amount actually paid therefor by a State, any agency or political subdivision of a State, or the employer of the deceased veteran. No claim shall be allowed (1) for more than difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing, or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organization's obligation without payment."

SEC. 2. This Act shall take effect on the first day of the second calendar month following enactment.

S. 4306

A bill to repeal the savings provision of Public Law 90-493 protecting veterans entitled to disability compensation for arrested tuberculosis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection 4(b) of Public Law 90-493 is hereby repealed.

(b) This Act shall take effect on the first day of the second calendar month following enactment, and any reduction or discontinuance of compensation required as a result of enactment shall be effective on that day.

INTRODUCTION OF S. 4307—THE ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970, TO ESTABLISH A CORPS OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

Mr. PERCY. Mr. President, the decade of the 1970's has been declared the decade to preserve our environment. On April 22, Earth Day, this country witnessed a unanimity of spirit that has too often been lacking in recent years. The Nation as a whole, young and old, conservatives and liberals alike, stood up en masse and dedicated themselves and this Nation to an unspoiled environment. However, most of the actions taken by this Nation have been reflex actions, reactions to critical situations that already exist. When it was discovered for instance, that there was a dangerous concentration of mercury in our waters, immediate action was demanded. It was for this reason that I introduced S. 4210 which provides maximum penalties of up to $10,000 a day for those who so poison our waters. This was a necessary reaction, but one that would have been unnecessary had farsighted planning been taken a decade ago.

This lack of comprehensive planning is evident in many other areas of congressional responsibility. The Army Corps of Engineers has been a continual object of criticism in this regard. The corps is charged with the responsibility of developing, maintaining, and improving our waterways. However, time and time again it has been accused of not giving due weight to environmental considerations. The Cross-Florida Barge Canal is a case in point. Construction of the canal was authorized in World War II to enable allied shipping to bypass the threat of Nazi submarines stationed in the Carribean and Atlantic. Yet, construction of the canal did not begin until 1964. Since that time, many voices have been raised in opposition to the construction of the canal. Some of our most prominent ecologists have expressed concern that this project will cause great harm to the environment of the area. Secretary Hickel, himself, wrote a letter to the Secretary of the Army requesting that construction be delayed for 15 months to allow an environmental study. Unfortunately, these pleas have gone unheeded. If a method had been provided whereby this issue could have been resolved before the environment was threatened, the whole affair could have been avoided. As I said, this is only one example where the actions of the corps have raised cries of alarm from conservationists, but previous commitments made by the corps have allegedly "locked in" the projects.

The Corps of Engineers has for years been dredging Chicago area waterways contiguous with Lake Michigan. They have dumped into the lake in recent years the equivalent of a dozen Merchandise Marts, the largest building in the world, in mass volume of polluted dredgings. The corps is well aware that this practice contributes to the pollution of the Great Lakes but maintains that Congress does not appropriate sufficient funds to dispose of the dredgings elsewhere. No one focuses proper attention on the environmental effect of their actions undertaken for commercial purposes.

Mr. President, I have great admiration for the Corps of Engineers. It has a great many outstanding accomplishments and is comprised of a group of highly dedicated men.

General Clarke, who serves as the Chief of the Army Corps of Engineers, is to be commended for taking the first steps toward the creation of the Environmental Advisory Board. Having invited six noted environmental experts to serve on the Board, General Clarke has given the legislation I am introducing today its initial impetus.

This latest undertaking by Clarke is characteristic of the high quality performance he has and continues to tender the United States through his military service. His work as engineer commander for the District of Columbia from 1960 to 1963, as director of military construction from 1963 to 1965, and most recently as commandant of the U.S. Engineering School at Ft. Belvoir is well known to us here in Congress. He is a man distinguished both in his public and private life, a fact further acknowledged by his having been decorated with the Legion of Merit.

It is a source of great satisfaction to me, as I introduce this legislation today, to think that when passed it will be administered at the outset by General Clarke.

But I think we must take into account the fact that in the past the Congress of the United States and the country have never given proper attention to the environmental effects of the actions of the Corps of Engineers nor to the actions of many other agencies of the U.S. Government, for that matter.

It is for this reason that I raise this issue at this time, not as a point of criticism, but as a means of trying to find organizationally the best way to adapt ourselves to new conditions and the new priorities the Nation and the Congress feel should now be placed on the environmental effects of activities of the Corps of Engineers and other governmental agencies as well.

I was pleased, therefore, to cosponsor the bill the administration sent to Congress to deal with this problem. It calls for a discontinuance of the disposal of polluted dredged materials into the Great Lakes by the corps and by private interests. Containment areas are to be made available as a suitable alternative.

The point is, however, that Congress should not have to legislate on each specific project of the corps when it has been found, after the fact, to be in violation of the general environmental interest. By providing a structure whereby the environmental interests can be systematically considered prior to the undertaking of specific projects, we can save the ecology and also save the Congress.

Recognizing then the need for some mechanism whereby environmental considerations could be given prime attention within the corps, I am today—on behalf of Senator RANDOLPH, chairman of the Senate Public Works Committee,

Senator COOPER, ranking minority member, and myself—introducing legislation which will provide this mechanism. I consider it absolutely essential to the protection of the environment. Mr. President, I ask unanimous consent that the bill be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, the corps has itself appointed an ex officio Environmental Advisory Board partially in response to the criticism it has received. It consists of six men authorized to advise the corps concerning environmental issues. While the Board gives every sign of being a good idea, I believe it is not nearly effective enough as presently structured. What is worse, it carries no promise of improvement in the future. The legislation I am introducing today builds on the principle and structure that the corps itself has chosen and in my judgment strengthens it to insure its effectiveness.

It is my plan to establish a permanent, statutory Environmental Advisory Board within the Corps of Engineers. The Board shall consist of six members to be chosen by the Secretary of the Army from a list of candidates submitted by the President's Council on Environmental Quality. This, hopefully, will insure that only highly qualified environmentalists be nominated to the Board, but it enables, at the same time, the Secretary of the Army to exercise a certain degree of flexibility in choosing those to serve.

The Board's primary function will be to submit a recommendation on each corps project to the Secretary of the Army before any construction has begun, or any permit issued. Their recommendation will be based upon the environmental considerations surrounding the proposed project. If the Secretary of the Army decides to act contrary to the recommendations of the Board, the matter will automatically be forwarded to the Secretary of Defense who shall, after reviewing the Board's recommendations and the Secretary's reasons for not following them, make a final decision. In addition, the Board shall be represented at each hearing conducted by the corps, and possess the right to hold initial hearings and/or subsequent hearings.

The annual report of the corps to the Congress shall include a summary of the Board's recommendations to the corps, the actions taken by the corps in response to those recommendations, and any other comments concerning the operations of the corps with respect to the environment which it deems pertinent.

Mr. President, the enactment of this legislation will stand as a benchmark in the history of environmental legislation. It will for the first time provide a structure to insure the consideration of the environment in all projects proposed to be undertaken by the corps. More importantly, it will establish the important precedent for creating in each governmental department a method for the systematic inquiry into these questions.

Perhaps some might comment that this legislation is unnecessary since the corps has already established an Advisory Board. I would point out, however, that this Board, though conceived some 5 months ago, has met only once and has not yet been asked to submit its opinion on any project. I am sure that the corps is sincere in its desire to protect the environment, but it is my opinion that so far its work represents only a good beginning. By statutorily establishing this Board, by specifying the manner in which the members of the Board shall be chosen, and by spelling out its functions, this legislation promises prime attention to the environment. If, for any reason, the Secretary of the Army, or the Secretary of Defense decide to go against the Board's environmental recommendations, I am confident that their reasons will be justifiable since both the public and the Congress will have the opportunity to keep close tabs on these issues.

Mr. President, each Member of the Congress can site innumerable examples of where the views of reasonable citizens concerning some project of the Corps of Engineers have been unnecessarily squelched. Had this Board existed 10 years ago, these controversies might never have arisen.

Each of us in this body knows that there are some bills which have been introduced which received considerable publicity, but which realistically do little to solve our environmental problems. This bill, though, is not a grandstander. It is a bill that is a down-to-earth practical solution that will work.

The idea behind this Board is long overdue. In order to protect the environment, in order to protect the rights of all citizens to an unspoiled environment, and in order to enable the corps to carry out its duties, this legislation deserves the immediate and favorable consideration of the Congress.

I am grateful for the powerful support offered by the co-sponsorship of Senators RANDOLPH and COOPER who have distinguished themselves through the years in their concern for preserving our environment.

The bill (S. 4307) to amend the Environmental Quality Improvement Act of 1970 in order to establish a Corps of Engineers Environmental Advisory Board, introduced by Mr. PERCY (for himself, Mr. RANDOLPH, and Mr. COOPER), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 4307

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Environmental Quality Improvement Act of 1970 is amended (1) in section 205 by inserting after "to be appropriated" the following: "to carry out the preceding provisions of this title," and (2) by inserting after such section a new section as follows:

"CORPS OF ENGINEERS ENVIRONMENTAL ADVISORY ROARD

"SEC. 206. (a) There is established in the Department of the Army a Corps of Engineers Environmental Advisory Board (hereinafter in this section referred to as the 'Board'). The Board shall be comprised of six members appointed by the Secretary of the Army for terms of three years each, except that (1) of the initial six members of the Board, two shall serve for terms of one year each, two for terms of two years each, and two for terms of three years each as determined by the Secretary at the time of appointment, (2) a member shall continue to serve until his successor is appointed, and (3) a member appointed to fill a vacancy in an unexpired term shall be appointed for the remainder of such term. Each member of the Board shall be appointed from among at least two individuals proposed for such appointment by the Council on Environmental Quality, except that on the effective date of this section any individual serving as a member of the environmental advisory board to the Corps of Engineers in the Department of the Army may be appointed as one of the initial six members of the Board. The Board shall annually elect one member to serve as chairman. Members of the Board shall be entitled to receive compensation at a rate fixed by the Secretary of the Army but not exceeding the rate specified for grade GS–18 in section 5332 of title 5, United States Code.

"(b) The Board shall review all functions of the Secretary of the Army being carried out through the Corps of Engineers for the purpose of making such recommendations to the Secretary with respect to each function as the Board determines will best carry out the purpose of this title and the National Environmental Policy Act of 1969.

"(c) Any report submitted to the Congress as part of such functions by the Secretary with respect to any examination or survey or recommending any improvement for river or harbor or flood control purposes shall include the Board's recommendations, if any, with respect to any activity proposed in such report.

"(d) In any case where the Board submits a recommendation to the Secretary of the Army relating to an authorized program to be carried out by the Secretary and the Secretary determines not to carry out such recommendation in its entirety, the Secretary shall submit such recommendation, along with the reasons for not carrying it out, to the Secretary of Defense who shall make a final determination with respect to carrying out the recommendation prior to its implementation.

"(e) In each hearing conducted by the corps, the Chairman of the Board or his designee shall attend.

"(f) The Board is authorized to conduct initial and/or subsequent hearings upon finding that (1) the corps has under consideration a project which will substantially effect the environment and for which the corps will grant or deny a permit, (2) the corps has conducted initial inquiries which in the Board's judgment did not adequately deal with all the appropriate issues or (3) that the public interest has been sufficiently represented to the Board to warrant further official inquiry.

"(g) There shall be included in the annual report submitted by the corps to the Congress a summary of the recommendations made by the Board to the corps, and the actions taken on the basis of those recommendations; plus such other comments as the Board shall determine to be necessary or desirable with respect to the operations of the corps as such operations relate to environmental protection.

"(h) The Board is authorized to employ such officers and employees (including experts and consultants) as may be necessary to carry out its functions under this section.

"(i) The Board shall have access to any information in the possession of the corps and may request the Corps to obtain or develop such information as it may require; the corps shall make available to the Board such staff and facilities as may be required.

"(j) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section."

ORDER OF BUSINESS

The PRESIDING OFFICER. The senior Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, does the Senator from Illinois still hold the floor?

Mr. PERCY. Mr. President, does the distinguished Senator wish the floor? I would be happy to yield it to him.

Mr. RANDOLPH. Mr. President, the Senator from Illinois may yield the floor and I will take the floor in my own right.

Mr. PERCY. Mr. President, I would be very happy to yield the floor.

Mr. BYRD of West Virginia. Mr. President, I think it would be well if the Senator yielded to the Senator his remaining time, because I am about to propound a unanimous-consent request.

Mr. PERCY. Mr. President, I yield the remaining time to the senior Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that once the Senator yields the floor, there be a period for the transaction of routine morning business with a time limitation on statements made therein for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, does the distinguished Senator from Kentucky desire to make remarks on this matter?

Mr. COOPER. Mr. President, I understand that the Senator has yielded to the senior Senator from West Virginia. If there is any time remaining I will speak on the matter.

The PRESIDING OFFICER. The Senator from West Virginia has 13 minutes remaining. Following that time, there will be a period for the transaction of routine morning business with a period therein not to exceed 3 minutes.

CONTINUATION OF DEBATE ON THE INTRODUCTION OF A BILL TO ESTABLISH A CORPS OF ENGINEERS ADVISORY BOARD

Mr. RANDOLPH. Mr. President, I am gratified to join the able Senator from Illinois (Mr. PERCY) as a cosponsor of his bill to establish an Environmental Advisory Board in the Corps of Engineers.

The Senator from Illinois has quite properly called attention to the very substantial impact on our natural environment by the civil works projects constructed by the Corps of Engineers. It is important that this impact be fully recognized and that projects under the jurisdiction of the corps be planned and executed in such a way as to avoid undesirable results.

I commend my colleague from Illinois for taking the initiative to create a body which would concern itself exclusively with the important work of the Corps of Engineers, and its relationship to the environment.

If the measure is enacted, I do not anticipate that the Environmental Advisory Board would relieve the Council on Environmental Quality of any of its responsibilities as established by the National Environmental Policy Act of 1969.

I envision, rather, that the Environmental Advisory Board of the Corps of Engineers would complement and reinforce the Council in its function of reviewing and appraising the environmental impact of all Federal activities. The relationship of the two bodies, in fact, is indicated in the bill by the requirement that members of the Environmental Advisory Board be appointed from a list of candidates submitted by the Council on Environmental Quality.

Furthermore, by confining its area of responsibility to the Corps of Engineers, the Board could be of considerable value in helping the Council on Environmental Quality develop its own expertise in this area.

Many projects undertaken by the Corps of Engineers are of such a large scale that their effect on the environment is substantial. Surely, a large dam can make its presence felt over a wide area, just as can a series of locks on a major waterway or even a small watershed project. All of these activities by the corps have worthwhile and productive goals, but we must assure that they do not also produce undesirable side effects. The very scope of many corps projects makes this assurance essential, for they are prominent examples of Government activity that must prominently reflect Government concern for the environment.

The Subcommittee on Flood Control, Rivers and Harbors of the Committee on Public Works, under the chairmanship of the distinguished Senator from Ohio (Mr. YOUNG), has already conducted extensive hearings on legislation relating to Corps of Engineers activities. The subcommittee has additional hearings scheduled, and I hope it will be able to consider this bill soon. This bill to establish a Corps of Engineers Environmental Advisory Board is a timely and worthwhile proposal. I hope it will receive the prompt and affirmative attention of the Senate.

The Senator from Kentucky (Mr. COOPER) has been alluded to by the Senator from Illinois as the ranking minority member of the Committee on Public Works. We have discussed this proposal. At the outset there was some question in our thinking as we developed our action which leads us to join the Senator from Illinois.

Mr. President, How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. RANDOLPH. Mr. President, I yield to the Senator from Kentucky, or, if he desires, I will yield the floor.

Mr. COOPER. Mr. President, will the Senator from Illinois yield to me?

Mr. PERCY. I have yielded the floor.

Mr. RANDOLPH. Mr. President, I have 4 minutes remaining. I yield to the Senator and I am sure we could get further time if necessary.

Mr. COOPER. Mr. President, I thank the Senator from West Virginia and the Presiding Officer for their generosity.

The distinguished Senator from Illinois (Mr. PERCY) has stated well the purpose of the bill which he has introduced, and in which the Senator from West Virginia and I have joined.

I think it is fortunate that the Senator from West Virginia (Mr. RANDOLPH), chairman of the Committee on Public Works, is a sponsor of the bill. As the ranking Republican member of the committee, I wanted to join in sponsoring the bill so that our committee in a bipartisan way, could study this bill and explore the very important issues it raises.

In the last 5 years the Committee on Public Works has engaged in the consideration of many problems about which very little was known throughout the country. We held hearings and Senate bills have been passed dealing with air pollution control, water pollution control, control of oil spillage, and on solid waste management. In connection with the Federal highway system we have dealt with comprehensive bills to give greater protection to the environment and the ecology from the intrusion of even necessary highways.

Now, through bills like that introduced by the Senator from Illinois (Mr. PERCY), we could begin to place more emphasis on the Corps of Engineers activities and the necessary protection of the environment which should accompany those activities. We owe much to the Corps of Engineers. In my State, the Corps of Engineers has reconstructed locks and dams on the Ohio River and made it the greatest artery of water traffic in the world. The corps activities involve water quality and storage; they have given us flood protection to save the lives of people.

Now, we believe it is important to look ahead. In many instances it may be too late. We think it important that we begin to study the enactment of necessary legislation to protect as best we can the environment and ecology in our river valleys.

Mr. President, I wish to pay tribute to our colleague from Illinois for his thoughtfulness and initiative in introducing this legislation. I assure him that in the Committee on Public Works the Senator from West Virginia (Mr. RANDOLPH), and I, as well as others, will give this matter our fullest attention.

I thank the Senator.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. PERCY. Mr. President, I wish to express my deep appreciation for the comments that have been made this afternoon by my distinguished colleagues. I have had a great deal of respect for the work they have done in the Committee on Public Works. I do not think many Members of this body fully appreciate the amount of time and attention it takes to consider these projects all over the country. The time and attention required should not be underestimated.

I have been constantly amazed, as I have testified before the committee, at the depth of the understanding the committee members have of the projects. I

know they themselves have been deeply concerned about the environmental protection.

I think the solution we have arrived at today via the legislative process will strengthen the credibility and enhance the reputation, which is already high, of the constructive work the corps has done. It will provide both a visibility and a mechanism whereby we can provide adequate funds and thought to each undertaking in evaluating the effect it promises upon the environment and upon society.

I thank my distinguished colleague once again.

The PRESIDING OFFICER. What is the pleasure of the Senate?

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to a period for the transaction of routine morning business, with statements therein not to exceed 3 minutes.

STATEMENT BY SENATOR PROXMIRE ON THE PROXMIRE-NELSON-HUGHES DRAFT AMENDMENT

Mr. BYRD of West Virginia. Mr. President, at the request of the able Senator from Wisconsin (Mr. PROXMIRE), I ask unanimous consent to insert in the RECORD a statement by Mr. PROXMIRE on the Proxmire-Nelson-Hughes draft amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PROXMIRE ON THE PROXMIRE-NELSON-HUGHES DRAFT AMENDMENT

Mr. President, tomorrow the Senate will vote on the Proxmire-Nelson-Hughes amendment which would provide that no draftee would be sent to Vietnam, Laos, or Cambodia without his consent.

The amendment provides that after the date of enactment of the Military Authorization bill, no funds may be expended for the purpose of sending draftees to South Vietnam, Cambodia or Laos, unless specifically authorized by Congress at a later date, or unless they volunteer.

It is now both possible and practical to do this.

"Numerically, it is now possible to end the practice of sending draftees to Vietnam. At the present time, there are only 107,400 draftees serving there. This figure represents less than 4 percent of our total U.S. military strength of 3.1 million men, and only 8 percent of the 1.3 million men now serving in the U.S. Army. There should be more than enough other military personnel to fulfill any obligations we may have in Vietnam without sending more draftees.

"Furthermore, the total of 265,000 men President Nixon has announced will be withdrawn from South Vietnam by next spring is two and a half times larger than the 107,400 Army draftees now serving in that country.

There is one further fact which makes it practical to stop sending draftees to Vietnam. Secretary Laird stated in May that by the end of fiscal year 1971, American ground troops in Vietnam will not be assigned to combat missions. While some of our troops will still be there, they will not be assigned to combat duty.

There is thus no reason to send further draftees to Vietnam, because the only argument now for draftees in Vietnam is because they are a very large part of the combat units—disproportionately large and without draftees it would otherwise be difficult to send new combat units to Vietnam.

A FAIR PROPOSAL

It is not only practical, but it is also a fair proposal.

"The draftee serving in South Vietnam today is assuming a highly disproportionate share of the fighting, and the dying, in that country. This has, in fact, been the case for several years now.

"In 1965, only 16 percent of total combat deaths in Vietnam, including all branches of the armed forces, were draftees. By 1968, this percentage had risen to 34 percent; by 1969 to 41 percent. Today, although draftees comprise only a quarter of all our men in Vietnam, their percentage of combat deaths has risen to 46 percent. Thus, while draftees comprise just over 10 percent of all military personnel, they comprise almost half of combat deaths in Vietnam. That is unfair.

"Statistics for 1969 further substantiate the fact that draftees are becoming the cannon fodder of the Vietnam War. During this period, Army draftees were being killed in action at a rate of 31 per 1,000. By contrast, Army enlistees were killed at a rate of 17 per 1,000. Thus, Army draftees were killed at nearly twice the rate of non-draftees in Vietnam last year.

"Facts and figures do not, in themselves, reveal the entire nature of the draftee's burden. For the draftee is, by definition, an involuntary inductee. He is serving in Vietnam by command, not consent. He has no choice in the matter. The vast majority of draftees in Vietnam are there against their will, fighting a war Congress has not even declared.

"The draftee has assumed a disproportionate share of the combat role in the Vietnam War. Now the combat role is being phased out. Last week 52 Americans were killed in action in Vietnam, the lowest total in three years.

"We no longer need the draftee in Vietnam. His role as the combat soldier can be and should be phased out. We have men to replace him, men that will go to Vietnam as volunteers, not involuntary inductees. This policy of an all-volunteer armed force in Vietnam is not only feasible, but right."

I want to make it clear that the amendment does not withdraw the draftees now in Vietnam at a faster rate than others or prevent them from continuing to fight. But it would prevent sending other draftees to Vietnam if the amendment is passed.

AMENDMENT WOULD EQUALIZE DRAFTEES AND VOLUNTEERS

In a very real sense what the amendment would do is to give the draftee the same option that the volunteer now has.

At the present time if a man signs up voluntarily for the military, he can most often choose his specialty or his training. The effect of this is to exempt him from combat duty in Vietnam.

In addition, men in combat in Vietnam are offered opportunities to leave Vietnam or to escape from combat, if they sign on for an additional period of time.

Again, the practical effect has been that the non-draftee fights only if he volunteers to fight, but the draftee—in very large proportions—is forced to fight.

The amendment, by giving the draftee a choice much like the choice of the non-draftee—would tend to equalize this presently very unequal situation.

The Proxmire-Nelson-Hughes amendment has been co-sponsored by Senators Cranston, Young of Ohio, Church, Yarborough, McGovern, and Goodell.

It deserves to be passed in order to provide some semblance of equality in who is required to fight in Vietnam in the few remaining months when combat missions will still be assigned.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

The petition of Frances Bogatoy, of Youngstown, Ohio, praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A letter, in the nature of a petition, from George F. Bern, of Youngstown, Ohio, praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 4227. A bill to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes (Rept. No. 91–1155).

By Mr. YARBOROUGH, from the Committee on Appropriations, with amendments:

H.R. 16900. An act making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1971, and for other purposes (Rept. No. 91–1156).

DISASTER ASSISTANCE ACT OF 1970—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS (S. REPT. NO. 91–1157)

Mr. BAYH. Mr. President, from the Committee on Public Works I report favorably the bill S. 3619, the Disaster Assistance Act of 1970, with an amendment.

In accordance with the agreement of the chairmen of the Public Works and the Banking and Currency Committees after the bill was ordered reported from the Public Works Committee on August 12, it was referred to the Banking Committee for review, comments and possible amendment.

The Banking Committee on August 25 considered the bill and suggested certain changes which have been incorporated in the bill as reported.

I ask unanimous consent that the individual views of the Senator from Kansas (Mr. DOLE) be printed together with the report.

The PRESIDING OFFICER (Mr. COOK). The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Indiana.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. ERVIN:

S. 4303. A bill for the relief of Maria Irma Majano de Reyes; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 4304. A bill to amend Section 402(a)(10) of the Social Security Act; to the Committee on Finance.

(The remarks of Mr. McGOVERN when he introduced the bill appear below under the appropriate heading.)

By Mr. PERCY:

S. 4305. A bill to amend section 902 of title 38, United States Code, to eliminate certain duplications in Federal benefits now payable for the same, or similar, purposes; and

S. 4306. A bill to repeal the savings provision of Public Law 90-493 protecting veterans entitled to disability compensation for arrested tuberculosis; to the Committee on Finance.

(The remarks of Mr. PERCY when he introduced the bills appear earlier in the RECORD under the appropriate heading.)

By Mr. PERCY (for himself, Mr. RANDOLPH, and Mr. COOPER):

S. 4307. A bill to amend the Environmental Quality Improvement Act of 1970 in order to establish a Corps of Engineers Environmental Advisory Board; to the Committee on Public Works.

(The remarks of Mr. PERCY when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

By Mr. STEVENS:

S. 4308. A bill for the relief of the estate of Lowell W. Gresham; to the Committee on the Judiciary.

By Mr. HRUSKA (by request):

S. 4309. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. HRUSKA when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 4304—INTRODUCTION OF A BILL TO AMEND THE SOCIAL SECURITY ACT

FAMILY ASSISTANCE ACT OF 1970—AMENDMENTS

AMENDMENTS NOS. 870 THROUGH 874

Mr. McGOVERN. Mr. President, today I am proposing three changes in the administration's family assistance proposal, included in five amendments to that bill, and one amendment to the Social Security Act a bill that would make it easier for welfare recipients to accept work.

Without objection I request that at this point my statement before the Senate Finance Committee, and the bill and amendments be printed in the RECORD.

The PRESIDING OFFICER (Mr. COOK). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD; and the amendments will be received and printed, and will be appropriately referred; and, without objection, the amendments and statement will be printed in the RECORD.

The bill (S. 4304) to amend section 402(a)(10) of the Social Security Act; introduced by Mr. McGOVERN, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 4304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(a)(10) of the Social Security Act is amended—

(1) by inserting "(A)" immediately after "(10)";

(2) by inserting at the end thereof the following:

"(B) provide that, effective April 1, 1971, whenever any family whose eligibility for such aid is terminated by reason of the acceptance of employment by any member thereof, such family may (within one year after such eligibility was so terminated), by filing a simple sworn declaration as to pertinent factual information, immediately re-establish its eligibility for such aid;".

The amendments (Nos. 870 through 874), submitted by Mr. McGOVERN, were referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 870

On page 30, line 3, strike out "(a)", and
On page 30, strike out lines 15 through 24.

AMENDMENT NO. 871

On page 25, lines 10 and 20, strike out "or supervise the carrying out of".

AMENDMENT NO. 872

On page 4, line 3, insert the following: "(a)"

On page 34, line 7, strike out "1964" and all that follows, and insert in lieu thereof, "1964."

On page 34, between lines 7 and 8, insert the following new subsection:

"(b) It is the intention of Congress that the Secretary of Health, Education and Welfare and the States in administering the Assistance Programs established by Title IV of the Social Security Act as amended by this Act, will to the fullest extent feasible, insure that the seniority, pension, and other rights and benefits enjoyed by those who were employed in the Administration of programs under such title as in effect prior to the effective date of this Act, will be preserved and protected."

AMENDMENT NO. 873

On page 16, beginning with the word "The" on line 16, strike out all through "applications,", and insert in lieu thereof:

"The Secretary shall provide for the use of a simplified statement, to establish eligibility, and for adequate and effective methods of verification of applicants and recipients through the use of sampling and other scientific techniques, and shall provide for".

AMENDMENT NO. 874

On page 27, beginning with the word "or" on line 7 strike out all through the word "payments" on line 9.

On page 27, line 18, beginning with the word "unemployed," strike out all through line 2 on page 28, and insert in lieu thereof: "unemployed."

On page 28, line 12, strike out the word "part," and insert in lieu thereof the word "title,".

The statement, presented by Mr. McGOVERN, is as follows:

STATEMENT OF SENATOR GEORGE McGOVERN BEFORE THE SENATE FINANCE COMMITTEE, AUGUST 25, 1970

It is a special pleasure for me to appear before this Committee to testify on the Administration's Family Assistance Plan. The Administration's initiative in this area has opened an opportunity for all of us to participate in what can be a truly historic step forward in the fight for an adequate and dignified program of public assistance in America. I know that this is something all of us desire, though we may have some differences over the details. We all want to make sure that Family Assistance is a really workable reform of the present system, not simply another flop which disappoints Americans who support it through their taxes and Americans who hope to improve their lives through its benefits. There is no question of the good intentions of the Administration in proposing this measure. But we all know where good intentions alone may lead. The potential significance of this legislation requires that it be given the most searching inquiry. I know that this Committee is doing just that and I hope my remarks here today will be of some help in that regard.

Before discussing the details of the program itself, however, I would like to respond to what I feel have been some unnecessary and unjustified remarks emanating from various quarters of the Administration. Since Family Assistance passed the House of Representatives, Administration spokesmen have repeatedly charged that its final passage by the Congress is being obstructed by liberals. I am frankly mystified by these charges, for, as best as I can tell, it has been the so-called liberals who have been consistently in the forefront of those supporting Family Assistance. Admittedly, this support has been expressed with reservations but the support has been there nevertheless. In fact, the Administration's criticism of those who basically support its effort makes one wonder about its understanding of the legislative process and its seriousness about enacting legislation. Let there be no doubt about this fact. Liberals want a Public Assistance reform just as badly as its most vigorous proponents downtown. But they want a bill that will really work. And, I for one, have serious doubts that the Administration proposal, unless significantly modified, will work. Let me just add, in passing, that this Committee is performing an important service to us all in exposing the discrepancies between the realities of Family Assistance and some of the more extravagant claims that have been made for it. Family Assistance is no panacea for the varied ills of our society. It can be one reasonable and practical step forward, however, in the developemnt of a larger national income maintenance strategy.

As you know, I have been deeply interested in the poverty-related problem of hunger and malnutrition in this country and have had the privilege of chairing the Senate's Select Committee on Nutrition and Human Needs. One of the major efforts of the Committee has been to press for an expanded food stamp program that will reach every hungry family until their cash resources may become adequate. At this point in time, only some six million persons participate in the food stamp program. Least understandable is the failure of many recipients of public assistance to participate. We believe that failure is often due to separate administrative structures. I see the mechanism of Family Assistance as a means of ensuring that food stamps reach every needy family. To that end, I have offered an amendment to HR 16311—the Simplified Food Stamp Distribution System—to combine the administration of Family Assistance and Food Stamps. This amendment, I believe, helps fulfill President Nixon's pledge "to put an end to hunger in America itself for all time." It would ensure that every public assistance family at least receives a minimum income of $2,400: the basic $1,600 under Family Assistance and $800 from the Food Stamp Program. The Administration has already announced its intention of taking a step in the direction of my amendment by permitting Family Assistance recipients living in Food Stamp areas to "check off" whether or not they want to buy stamps. This does not do anything for the assistance recipients now dependent on unsatisfactory surplus commodity distribution programs. I see no reason why assistance recipients in commodity counties should not also have the right to check off their desire to receive stamps. Not only would this amendment take us farther in assuring that food assistance reaches all in need, it would result in millions of dollars saved through streamlined administration.

I know that this Committee has spent a

considerable amount of time discussing problems of work incentives and disincentives, much of the debate centering on so-called notch problems or loss of benefits that may result from increased income. It has been brought out that the Food Stamp Program, when considered along with Family Assistance, creates one of these so-called notches. F.A.P. incidentally, represents an improvement over the present arrangement. It is possible to diminish the size of the notch by technical changes in the food stamp schedule, changes that do not damage the integrity of the program. But, failing that, I must say in all candor that I prefer the small risk of a notch disincentive, to the risk of millions of needy persons being deprived of food assistance. It is for this reason that I am disturbed by the revised food stamp schedules submitted to the Committee by the Department of Health, Education and Welfare. They appear on pages 46–58 of your June publication of "The Family Assistance Act as revised and resubmitted." A close look at those tables reveals that all earned income would be counted for purposes of calculating a family's food stamp purchase price and bonus stamps. Under the present system for calculating income, a recipient is allowed certain mandatory deductions and $360 in exempt income to arrive at a net income for purposes of food stamps. Under F.A.P. we were told there would be $60 a month, or $720 a year of exempt income. But the HEW charts indicate that any earned income would mean an immediate rise in the cost of food stamps, and an immediate reduction in the value of the bonus stamps. That would work a particular hardship on those aged, blind and disabled persons who have some small source of income beyond public assistance and those AFDC mothers who do part-time work. The revised schedule would not apply to all of these persons once FAP goes into effect. The $110 assistance benefit for single persons, for instance, puts some of those persons beyond food stamp program eligibility.

But we have reason to believe that the Administration intends to implement their new food stamp schedule shortly. Thus, those persons now using the program would be penalized for future program accommodation. And it is those who do take the initiative to secure a little in earnings that will suffer most. If this is the kind of revision the Administration actually plans, I will oppose it vigorously. Family Assistance must be used as a means to make sure that people are adequately nourished, not as a means to deprive them of nutrition to satisfy mathematical symmetry.

Let me speak, for a moment, directly to the issue of the notch problem and work. I do not believe that many Americans want a free ride on the dole. Welfare, with all the stigma attached to it, is not an attractive alternative to self-support through work. Most people do not choose to be maintained by welfare unless they have no choice. The notch problem is not new. There have always been points at which earned income in some amount would mean the end or sharp reduction in welfare and in-kind benefits. People do not reject earned income and accept public assistance. For most poor people the welfare categories established by law do not permit the able-bodied that choice. For the others, the only work available too often does not provide them with the kind of security they need to keep body and soul together.

I believe that whether people work or do not work is more a function of our manpower and education policies, and the general condition of the economy, than it is a function of some mathematical formula dreamed up by the economists. I believe the availability of jobs at living wages constitute a *work incentive* and that a lack of jobs, or jobs only at unfair wages, are the real *work disincentives*. The question of whether people will quit welfare to take work, or quit work to take welfare, has always been with us. The answer the poor have always given us is that they will work when work is available, especially when that work offers real security. This is the key. Security. It is a basic need of every human being. It is most important to people who have spent their lives on the edge of insecurity, on the edge of hunger, of homelessness, of poverty.

I heartily support real work incentives. I strongly oppose the kind of work incentives that in reality only protect the idea of cheap labor in America. The real answer to encouraging poor persons in America to work is to build into any work requirements the fundamental protections that our great labor organizations have struggled so hard to win: safe working conditions, living wages, retirement and sickness benefits. The answer to the question of how to encourage the poor to work does not lie in how we phrase a work requirement that harrasses and humiliates the poor. Provide the jobs, and the wages, and the poor will solve the notch problem. Other senators are offering ways to meet this problem. Senator Nelson has proposed a program of public service employment so that decent jobs at liveable wages will be available. Within the Family Assistance Program, Senators Harris and Ribicoff have also proposed that jobs be provided. I believe their efforts should be supported. I myself hope to address this problem of a sense of security, at least in part, with an interim amendment I have offered to enable welfare recipients to move more easily from public assistance to employment and back to public assistance when that is necessary.

As I have followed the proceedings before this Committee, I could not help being reminded of the welfare debates that have taken place since I have been in Congress. You will remember them as well. In 1956, we voted for the first Social Service Amendments as a solution to the welfare problem. In 1962, we voted again for service amendments. In 1967, I recall very vividly the work requirements tied to the Work Incentive Program and the provisions for finding deserting fathers. Each time the debates have been the same and so have been the results—rising welfare rolls and costs. Each time the hope that we will turn welfare recipients into earners and taxpayers proves hollow. If I am skeptical that the Administration's Family Assistance proposal will solve our problems, it is because all the proposals of the last 15 years have made the same claim, and for mechanisms very similar to what we are asked to vote on this year.

There are really three central issues in this year's debate: How we will treat work, how much money we will spend, who will administer whatever program emerges.

I want to make a few more comments about work. I have no quarrel with work incentives; I believe welfare programs should not be designed to discourage people from taking jobs. I have no quarrel with providing training and day care for those who are able to work. I do have a serious quarrel with the idea of using our public assistance programs to institutionalize low wages, unsafe working conditions, and poor labor practices. To do that is to freeze the poor into permanent welfare status, with no hope of being released from its terrible dependency.

Let me expand on this a bit. In 1969 there were nearly five million poor families; 3.2 million of those families had one, two, three or even more wage earners. Even Secretary Richardson tells us that 39% of our poor families were headed by a fully-employed worker whose earnings were less than a poverty wage. Just last week a small news story held that 500,000 federal employees earned wages below the poverty line. Given these facts I find it difficult to understand why the Congress of the United States should make it legal and virtually inevitable that millions of American households be supported through a system of welfare payments rather than a system of adequate wages. If we have adequate wages and a mechanism to compensate for family size, we would have no working poor.

That brings us to the matter of what is an appropriate referral for work. I believe it sound to require that job referrals be mandatory only at the higher of either the prevailing wages for such work in an area, or the federal minimum wage. Senator Harris has made such a proposal and I believe it deserves support. At the same time, if we took the single step of raising the minimum wage to $2.00 per hour, a full time worker would earn $4,100. At least one estimate, and I believe it conservative, indicates that this would result in better than a half billion dollars saving in payments to the working poor.

But it is not just a dollar amount that is at stake. Other protections have been built into our labor system to protect workers from exploitation. Specifically, recipients of Unemployment Insurance have been granted a variety of safeguards which I would find it unacceptable to omit. At the very least, we must restore that language guaranteeing that referrals would be made only to suitable work or training.

There are now many individuals who fall between the cracks in our public assistance/labor market system. There are partially disabled adults who do not qualify for public assistance and cannot get or hold jobs. There are men and women in their sixties not yet old enough to qualify for Social Security or Old Age Assistance living in areas where the only income available is from stoop labor in the hot sun—work for which they are no longer physically able. There are individuals too blind to get jobs and not blind enough for public assistance standards. It is these who will be exploited if we do not write employment protections into FAP. And it is their children who will suffer with them.

It is not enough to recognize that there are unpleasant jobs in any society. We must also recognize that in some parts of this country public assistance would be denied to mothers who refuse to work for 60 hours in a week as a domestic help, while their children are said to be in adequate day care if an older neighbor child looks after them. It is likewise true that some parts of this country men with "brown lung," for whom a return to the textile mills or coal mines would prove fatal, would be denied assistance if such jobs existed. There are places in this country where assistance is now, and would in the future, be denied to everyone when a fruit or vegetable crop was due for harvest. There are migrant and mining camps in this country in which conditions are admittedly substandard in such basic areas as housing, sanitation and water supplies. Those jobs—mining, manufacturing, harvesting—may indeed be required by society. But if our society requires that those jobs be performed then we must be prepared to pay the workers involved and to protect their rights to work and live in physical safety.

Liberals have also been charged with wanting to increase the amount of money in Family Assistance to an unreasonable level. I do not think this is an accurate charge. I fully appreciate the inflationary pressures in our economy and the need to keep a lid on federal expenditures. I do not understand why the real human needs of our people—health, education and welfare—must always be sacrificed to those pressures rather than some other, less important programs. Be that as it may, I believe there is some money within the limits of this year's budget which can and should be applied to improving Family Assistance. For instance, I understand that the Department of Health, Education and Welfare now estimates it could not implement Family Assistance before July of 1972 or even later. Why then could not money earmarked for start-up costs in 1971 be used to restore state benefits for intact families with an unemployed parent present, or to

create actual jobs, or to expand day care opportunities more rapidly. Another improvement that will not cost more money this year or next, but which would ensure the ultimate success of the new system, would be built-in steps to raise the basic payment to the federal poverty line by 1975, or steps toward higher federal payments but reduced state burdens over time. Simply put, this is not a question of how to use available money in the first year of the program, but a commitment to its future. A commitment to make sure that Family Assistance doesn't become a dead-end for America's poor.

The last critical issue I want to discuss is the Administration of the program. It often seems to me that we operate our welfare programs on a principle of reverse responsibility. Unlike other programs, we have given the most significant discretionary controls in welfare to that level of government which contributed the least to its financial support. Under AFDC, local governments exercised most control and paid only about 10% of the cost. States controlled the rest and bore about 30% of the cost. Washington picked up the bill, issued regulations and gave advice, but really did very little by way of controlling the programs.

There was once good reason for this. Originally federal programs were simply adjuncts to state efforts. But with the introduction of Family Assistance and an expressed commitment to a single, nationally uniform program, I believe there is good reason to correct this imbalance. If the federal government is paying the bill, then the federal government should have the most say over how the program is run. We should move, now, from the very outset to make sure that this is so. If we permit the program to be turned over to the state lock, stock and barrel from the beginning of the program, it is not going to be easy three or five years hence to get the program back. For this reason, I am offering amendments to eliminate the option for full state operation of the program, as well as the third level option of county level administration. As long as states continue to share the financial burden of the program, then shared federal and state administration makes some sense. County control makes no sense at all. Full federal administration makes the most sense because only through such unitary control will state by state variations be eliminated.

Federal administration is necessary from another perspective as well. There has been much talk in recent weeks of "national standards," as though standards would, of themselves, ensure national uniformity. While it is true that national standards are important and necessary, standards alone are not enough. Without federal administration, it will still be possible, within broadly set limits, for states and localities to exercise discretion in the operation of the programs. I have been made dramatically aware of this problem in the operation of our federal food programs, where local discretion has been used to keep eligible applicants from receiving assistance. Federal administration is not a cure-all but it would go a long way to more even-handed, uniform administration of our public assistance programs.

So, let me say in conclusion, that the time has come for reform, real reform, of our inadequate, inefficient, demeaning system of public assistance. The Administration has proposed a program. And we have the opportunity to improve on it. I hope we will all have an opportunity to vote on a final measure which includes the improvements that I have outlined today and that other senators are vigorously pursuing. I hope we will not have to face the choice of voting for a measure that does not include those improvements, that does not truly reform the present system, because I do not believe that kind of measure merits our support.

ADDITIONAL COSPONSOR OF A BILL

S. 4215

At the request of the Senator from Wyoming (Mr. HANSEN), on behalf of the senior Senator from California (Mr. MURPHY) the junior Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 4215, to authorize the Secretary of the Interior to engage in a feasibility study of the Salton Sea project, California.

SENATE RESOLUTION 458—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF A HISTORY OF THE COMMITTEE ON AGRICULTURE AND FORESTRY AS A SENATE DOMUMENT

Mr. ELLENDER submitted the following resolution (S. Res. 458); which was referred to the Committee on Rules and Administration:

SENATE RESOLUTION 458

Resolved, That a brief history of the United States Senate Committee on Agriculture and Forestry and landmark agricultural legislation 1825–1970 be printed as a Senate document, and that there be printed nine thousand additional copies of such document for the use of the Committee on Agriculture and Forestry.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 454

At the request of the Senator from West Virginia (Mr. BYRD), the Senator from Colorado (Mr. ALLOTT) was added as a cosponsor of Senate Resolution 454, expressing the sense of the Senate that the United States should enter into agreements with other nations relating to measures to be taken against persons who unlawfully endanger the life and freedom of any official of a government of another nation or international organization, or a member of his family.

SHARING THE COST OF HEALTH INSURANCE FOR FEDERAL EMPLOYEES AND ANNUITANTS—AMENDMENT

AMENDMENT NO. 869

Mr. McGEE. Mr. President, I submit an amendment intended to be proposed by me, to S. 1772 which was reported by Senator BURDICK on August 27, a bill to increase the Government contribution to the cost of health insurance for Government employees, and ask that the amendment be printed and lay on the table.

This is a technical amendment merely changing an incorrect printing in the bill as reported. The bill provides for a July 1, 1970, effective date but the committee intended for the effective date to be October 1, 1970, to avoid administration problems of retroactive increases in insurance premiums already paid.

When the bill is called up for floor action, I hope that the majority leader, if I am not present at that time, will ask unanimous consent for the adoption of this technical amendment.

The PRESIDING OFFICER (Mr. EAGLETON). The amendment will be received and printed, and will lie on the table.

FAMILY ASSISTANCE ACT OF 1970—AMENDMENTS

AMENDMENTS NOS. 870 THROUGH 874

Mr. McGOVERN submitted five amendments, intended to be proposed by him, to the bill (H.R. 16311) to authorize a family assistance plan providing basic benefits to low-income families with children, to provide incentives for employment and training to improve the capacity for employment of members of such families, to achieve greater uniformity of treatment of recipients under the Federal-State public assistance programs and to otherwise improve such programs, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

(The remarks of Mr. McGOVERN, when he submitted the amendments, appear below under the appropriate heading.)

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 754 TO H.R. 17123

At the request of the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New York (Mr. GOODELL) was added as a cosponsor of amendment No. 754 to H.R. 17123, the military appropriations authorization bill.

ADDITIONAL STATEMENTS OF SENATORS

CONQUEST OF CANCER RESOLUTION

Mr. YARBOROUGH. Mr. President, on Friday the Senate adopted Concurrent Resolution 675, which was passed by the House on July 15, 1970. The resolution was submitted by the gentleman from New York, the Honorable JOHN J. ROONEY, on March 4, 1970, as House Concurrent Resolution 526, and was submitted under its present designation of House Concurrent Resolution 675 on July 8, 1970, to provide for a minor and inconsequential change in language.

The resolution is one which expresses the sense of Congress with regard to cancer. It is fitting that the Senate joined the House in expressing its dedication to the solution of this dread disease. In April of this year the Senate adopted Senate Resolution 376, which was submitted by me on March 25 of this year. That resolution provided for the appointment of a panel of cancer experts to explore the cancer problem and recommend what needs to be done about it. That is appropriate, now that the House and Senate have combined their common sentiment and in the terms of this resolution dedicated the entire Congress to the necessary legislation and appropriations to accomplish the same purpose.

It is estimated by the National Cancer Institute and the American Cancer So-

ciety that 330,000 persons will die from cancer this year. Eminent scientists and physicians in the study and treatment of cancer are convinced that a significant number of these deaths could be averted if only sufficient commitment and resources were available. Furthermore, there is reason to believe that an enhanced research effort will lead to further breakthrough in the management and treatment of persons suffering from cancer.

I am delighted that under the able and distinguished leadership of Representative ROONEY this resolution was agreed to by the House. The Senate has approved the House joining us in this vitally important endeavor.

Mr. President, the action of this body in adopting House Concurrent Resolution 675 is another forward step toward the goal the Senate has previously set to find the cause and cure of cancer by 1976, the Bicentennial of American independence. We seek to find American independence from cancer by 1976.

APPROPRIATIONS FOR THE SUPERSONIC TRANSPORT

Mr. MUSKIE. Mr. President, I ask for unanimous consent to have printed in the RECORD a statement made by me on Friday, August 28, 1970, before the Transportation Subcommittee of the Senate Committee on Appropriations, concerning appropriations for the supersonic transport.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR EDMUND S. MUSKIE BEFORE THE TRANSPORTATION SUBCOMMITTEE OF THE SENATE APPROPRIATIONS COMMITTEE ON APPROPRIATIONS FOR THE SST, AUGUST 28, 1970

Mr. Chairman, in 1963 President Kennedy announced that the Federal Government would embark on a program to develop a supersonic transport. He pledged a $750 million limit on Federal support of the project.

We have now spent almost $700 million on this project and are beng asked to appropriate $290 million more. It is now likely that the prototype costs to the Government will rise to at least $1.3 billion. Many people suspect that the Government will even be asked to finance production of these aircraft.

It is now time, Mr. Chairman, to take a second look at the SST . . . to re-evaluate it . . . and to ask whether we can afford to continue the program.

This is an appropriate time to take a second look . . .

For this year Congress passed the National Environmental Policy Act. We said that major Federal programs must be carefully examined in light of their potential impact on the environment.

This year we are considering significant changes in our national transportation policies. We recognize the need to spend our money more carefully and more wisely . . . on programs that do the most good for the most people.

And this year we are faced with substantial unemployment in one-fifth of our major labor markets. We must deal with this problem effectively and quickly.

So we should ask what the SST means to us . . . with respect to our environment, our priorities and our people.

To many Americans, the SST is a symbol of man's lack of concern for his planet.

I am aware that proposed rules would prohibit SST's from flying over populated land areas. But this does not answer the questions of—

What effects sonic booms would have on ships at sea, and on fish and animal life;

What effects sideline takeoff noise four or five times that of the 747 would have on people who work in the airports or live in neighboring communities;

What effects jet vapors would have on the upper atmosphere, on world climate, and on radiation levels.

Even the Chairman of the President's Council on Environmental Quality has stated that this last question "has not received the attention it deserves." The MIT Study of Critical Environmental Problems concluded recently that "the projected SST's can have a clearly measurable effect on the world climate." The National Academy of Sciences has reached a similar conclusion.

I know that proponents of the SST have promised that these problems will be studied as soon as the prototypes are built and before the production phase.

I hope that an increasing financial commitment would not weaken that resolve. But I am concerned that this research would occupy environmental research resources that are being stretched thin as we seek to solve the problems of air and water pollution that we have already created.

We should ask whether new research on the environmental effects of the SST—research that would be admittedly necessary before production—is the wisest use we can make of our limited capacity.

I am also concerned, Mr. Chairman, with the question of whether the FAA has complied with the National Environmental Policy Act.

Section 102 (2)(c) of the act requires a "detailed statement" from the agency on the environmental impact of any major proposal—whether or not work on the project had begun before passage of the act. The FAA has not submitted a detailed statement.

Section 102 (2)(c) of the act requires each agency to "study, develop and prescribe appropriate alternatives to recommend courses of action." The FAA has not submitted those alternatives.

The Appropriations Committee should not report the appropriations bill to the floor until the requirements of section 102 of the Environmental Policy Act have been met.

Then the Senate can make its own decision on the merits. At this time too many environmental questions have not been answered.

* * * * *

We should also ask whether we *need* the SST . . . as much as we need new mass transit systems for our cities, new airport facilities for the planes already flying, or new schools, homes and a clean environment.

These programs also cost money—as much or more than the SST. And the funds must come from the same kitty . . . resources that are limited.

This year's budget for air pollution control is $106 million. To restore our air to a breathable, healthy level will cost the Government almost $400 million a year. Appropriations bills for medical care, Education and Housing have been vetoed . . . yet *these* needs are not being met.

We cannot afford everything under the sun. We must face the realities of difficult choices . . . and say "no" to some things we should like but do not need.

Those are the questions we must ask about our priorities.

Finally, Mr. Chairman, we ask what the SST means to our people.

The level of unemployment in the State of Washington is unacceptable . . . as unacceptable as in thirty other major labor markets across the nation.

We cannot ignore the fact that the problem in Washington may get worse if the SST program is halted. But we know that the program will not reverse the rising levels across the nation . . . and this must be our first concern . . . with first call on our resources.

We must meet the challenge of unemployment nationwide. It will take new programs, more imaginative ideas and perhaps more expensive efforts. It is a problem that affects all our States . . . and that demands remedies for all our States.

The SST program is not without merit, Mr. Chairman—

It *would* provide job opportunities;

It would be a technological victory;

And it *would* be an exciting advance in air travel.

But at this time, Mr. Chairman, it is not the best use of our resources . . . the environmental, social and human costs are too high.

And at this time, with the kinds of needs that have gone unmet, dropping the SST is the kind of difficult decision we must make.

MILITARY AID FOR CAMBODIA

Mr. FULBRIGHT. Mr. President, on July 23 the President signed a determination, required by law, which authorizes up to $40 million in military aid for Cambodia in fiscal year 1971. This will be in addition to the $8.9 million already given Cambodia in fiscal year 1970.

The last sentence of the determination, which was in the form of a memorandum from the President to the Secretary of State, stated:

> You are requested on my behalf to report this determination and authorization promptly to the Senate and House of Representatives.

This is in accord with the requirement in the Foreign Assistance Act that the Congress be notified promptly of such decisions. Webster's defines "prompt" as "Done or rendered readily; given without delay or hesitation." The determination, transmitted by a letter from the Department of State dated August 21, was received by the Committee on Foreign Relations on August 24. Another reporting requirement, contained in the Foreign Assistance Appropriation Act, requires that determinations of this nature be reported to the Congress "within 30 days after each such determination." It was 29 days from the date of the President's signature to the date of the Department's transmittal letter. I note, however, that the basic information had been leaked to the press well before the committee received any official notice of the decision. I ask unanmous consent that the President's determination be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
July 23, 1970.

PRESIDENTIAL DETERMINATION NO. 71–2

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Determination and Authorization Under Section 614(a) of the Foreign Assistance Act, and Under the Foreign Assistance and Related Agencies Appropriation Act, Permitting the Furnishing of Defense Articles and Services to Cambodia up to $40 Million

In accordance with the recommendation in your memorandum of June 27, 1970, I hereby:

(a) Determine pursuant to Section 614(a)

of the Act that the authorization of the use of up to $40 million of funds available for the grant of defense articles and services to Cambodia, without regard to the limitations of Section 505(a), 505(b)(2), second clause, 509, 620(t), or any other provision of the Act limiting the furnishing of military assistance to Cambodia, is important to the security of the United States;

(b) Authorize pursuant to Section 614(a) of the Act such use of up to $40 million for the grant of defense articles and services to Cambodia without regard to the limitations of the Sections of the Act referred to in (a) above:

(c) Determine pursuant to the third proviso of the military assistance paragraph of Title I of the Foreign Assistance Act, 1970, that military assistance to Cambodia for FY 1971 in an amount of up to $40 million is essential to the national interest of the United States.

You are requested on my behalf to report this determination and authorization promptly to the Senate and House of Representatives.

RICHARD NIXON.

Mr. FULBRIGHT. Mr. President, unfortunately, the Secretary of State's recommendation, which contains the justification for the President's decision, is classified "Secret" and cannot be made public.

The handling by the executive branch of the requirements of law which must be met prior to furnishing military aid is practically a rerun of the earlier decision to send arms to Cambodia, which involved a determination made retroactive a month from the President's signature in order to legalize arms shipments which had been made a month before. The Foreign Assistance Act, quite properly, contains a number of restrictions which must be satisfied before arms aid can be given to a country. These restrictions were designed both to insure the most effective use of our citizens' tax dollars and to act as a restraining influence on executive branch relations with arms aid recipients. Here are the requirements of the Foreign Assistance Act that have been waived in the decision to give more arms to Cambodia:

First. Section 505(a) requires that military grant aid not be given unless the country has agreed to comply with a number of specific requirements, pertaining to use, transfer, and U.S. access to the equipment. Such an agreement was proposed to the Cambodian Government on August 20, 4 months after aid was first given, but apparently the agreement has not yet been concluded.

Second. Section 505(b)(2) requires that any defense articles totaling more than $3,000,000 in a fiscal year cannot be furnished unless the President determines that the arms will be used to maintain its own defensive strength and "the defensive strength of the free world."

No such determination has been made nor is one likely to be made in view of Cambodia's claim of neutrality.

Third. Section 509 requires that before any defense article having a value greater than $100,000 be given to another country that the head of the appropriate U.S. group in Cambodia certify 6 months prior to delivery that the country "has the capability to utilize effectively such article."

No such assurance has been given and we have no information on what type of equipment we plan to give her that costs more than $100,000. A $100,000-plus weapon would hardly fit in the "small arms" category, however.

Fourth. Section 620(t) requires that, in the case of a country that has broken diplomatic relations with the United States, diplomatic relations must be restored and a new aid agreement negotiated before military aid is provided.

We do not have an aid agreement with Cambodia.

However, section 614 of the act gives the President general authority to waive all of those and any other requirements of the act "when the President determines that such authorization is important to the security of the United States." The President used this authority to waive the requirements I have listed. He is perfectly within his rights in exercising that authority. And the State Department is fully within its legal rights in waiting 29 out of the 30 days allowed by the statute to send the determination to the Congress.

But the issue involved is not so much one of legal niceties as it is of comity between the legislative and the executive branches of Government. In recent years there has been a great erosion of the executive branch's credibility in the Congress. Instead of mutual trust and confidence there is now mutual distrust and suspicion, not only on foreign policy but across the board. I cannot believe that the President is conscious of the erosive effect on the relationship between the two branches caused by actions of this nature. In the handling of such a matter he is, I believe, a captive of a bureaucracy which, in large measure, seems to have little respect for the legislative branch. Credibility is a fragile thing and once destroyed is very difficult—and often impossible—to restore. This most recent incident is of little practical consequence but it does, I think, illustrate the operation of a way of thinking now prevalent in the bureaucracy of the executive branch. It is an attitude which seems to consider the Congress of little importance in the running of this country's affairs—foreign or domestic. There is a lesson here for every Member of Congress.

LACK OF ADEQUATE INSPECTION OF IMPORTED MEATS

Mr. YOUNG of North Dakota. Mr. President, I never could quite understand why the people of the United States are so concerned about the strictest kind of inspection of meats of all kinds slaughtered in the United States and at the same time have very little or no concern about the lack of adequate inspection of vast amounts of imported meats.

It is wrong to believe that much of this imported meat is subjected to anything like the careful and stringent inspections made of our domestic meat products.

Mr. President, an excellent article on this subject appeared in a recent issue of the Western Livestock Reporter. It was written by Mr. Patrick K. Goggins, the publisher. It is an article that I think would be of real interest to the vast consumer public in the United States. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AS I SEE IT . . .

In this world and in this age of laws and regulations and rules it certainly seems odd how the United States Department of Agriculture and others can turn a blind eye on inspection of foreign meat.

The absolute whammy that they are putting on the American packer, both at the federal and state level is unbelievable and yet, they turn their back on the uncleanliness and the standards of inspection of imported meat.

This particular item has been fought out the last three weeks in Congress to a fair-thee-well. I don't know exactly what is going to come of it but there are more Republicans and Democrats alike joining arms in the fight to get something done. And it certainly needs to be done.

Dr. H. M. Steinmetz, Assistant Deputy Administrator of consumer protection of the USDA is one of the biggest fighters against any passage of any kind of a meat import inspection bill. He comes up with some pretty weak arguments in my estimation of why we shouldn't touch it.

Of course the State Department, the Department of Consumer Affairs and the USDA all feel that if any kind of stringent, more strict inspection law is put into effect, the foreign countries will then counteract and put quite a lot of pressure upon American products that they buy through similar acts.

Bruce E. Hackett from Overbrook, Kansas testified in a letter to Senator Robert Dole (R. Kansas) that he and his family lived and had a trucking business in Australia from September 1963 to December of 1967 and that his brother is still there running that business.

He testifies that on in-plant handling the meat was moved from building to building in non-refrigerated cars. They did not have refrigerated vans for in-plant and that most of the meat is hauled in flat cars or flatbed type trailers with a canvas over the top of it from the plant down to the docks where it waits in the hot sun for up to 8 to 10 hours without refrigeration before it is loaded into ships.

The few inspectors we have over there who are trying to get something done, can't begin to. Here is a paragraph for instance on page 20, paragraph 53 of the Rules and Regulations of the Commonwealth of Australia: "When an officer considers that vermin are likely to come in contact with meat at an export establishment—this is on processing meat to be sent out of the country—the establishment, require the occupier to cause to be taken effective measures for the purpose of destroying the vermin."

In other words they can use poison to get rid of the rats but nothing is done with the meat. Here in the U.S., if rats get into meat, the whole lot is condemned and goes in the tank. When it gets here to the U.S. approximately 180 pounds out of 32,000 pounds is looked at and looked at quite hastily. The U.S. inspectors then put USDA Inspected and Passed on these crates.

Now hear this: This same meat can then go into interstate shipment. It can go to federal inspected plant.

Now we have our state packers who are under state rules, who are under the same regulations as our federal packing houses. They cannot ship meat interstate. They have to ship intra-state. Our regulations won't even let this state inspected meat even get near a federal inspected packing house. Why should this imported, uncleaned meat be allowed to enter those channels without any strings attached.

They kill horses in the same plant that they kill cattle in Australia. They kill rabbits for people in the same plants as they do cattle.

And the 14 roving inspectors that we have over there don't live in Australia or New Zealand or Argentina, they live in the United States and maybe see the plant once a year. Then when they inspect, they inspect their systems, but they don't inspect livestock.

Then you look at the U.S. packer. He's forced to pay U.S. inspectors overtime anytime he works over 8 hours and when there is an inspector on the line, the whole packing house stops, because they want to look at every carcass and do.

The packing industry in the United States has paid in excess of $15 million dollars last year alone in over-time to USDA meat inspectors to keep their plants running. This was just to the inspectors themselves, not to mention all the man-hours and loss of time waiting for these inspectors while the whole process stopped and employee pay scale went on.

Then in Australia they allow wild rabbits that are destroyed on ranches to be brought in to their meat establishments to be prepared for export without inspection.

Now maybe many of you ranchers who have not written to your Senators and Representatives and the President of the United States will do it. Something has got to be done. . . .

This is a very unfair, unhealthy situation for you in the cow business. Because one of these days some kind of a disease is going to break out over this deal and you know who is going to get the black eye . . . meat producers.

PRAISE FOR THE TROOPERS OF CASPER, WYO.

Mr. McGEE. Mr. President, many Senators, at least those who share my interest in football, undoubtedly had the opportunity last night to witness the halftime show put on by the troopers of Casper, Wyo., at the New York Jets-Minnesota Vikings game in Bloomington.

Those who did witness this show saw an example of the skill and precision of an outstanding youth organization. Casper, and indeed all Wyoming, is vastly proud of the drum and bugle corps which recently took its second straight class A world open title in competition in Lynn, Mass., on the heels of a first-place win in the Veterans of Foreign Wars national drum and bugle competition in Miami, thus capping its most successful season to date.

The troopers, a band of dedicated youngsters who train and work year-round under the direction of equally dedicated adult leaders, are Wyoming's official musical ambassadors, Mr. President. They are expected to arrive home in Casper late tomorrow, in time for the youngsters to get back to the classroom after another victorious sweep of the country. As always, Casperites will turn out by the thousands to welcome the troopers home. For those people, and for all of us, really, this organization represents living proof of the determination to excel, the willingness to work hard, and the talent to achieve success which is present in America's young people.

A BRIGHT SIDE TO EVERY PROBLEM

Mr. BELLMON. Mr. President, in a recent editorial, the Daily Oklahoman points out that there is a bright side to almost every problem facing our Nation. In our efforts to right our wrongs, we tend to look only at the negative side, that which we hope to better.

Occasionally it is good to know a positive side to many problems does exist. Therefore, I ask unanimous consent that the editorial entitled "There Is a Bright Side" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THERE IS A BRIGHT SIDE

Americans want more optimism from their public officials and business leaders, President Nixon is reported to have told recent visitors to the San Clemente White House.

It is natural for any elected leader to prefer that the voters look on the bright side of life, especially in an election year. In Nixon's case, his concern that we may be forgetting what is right with America in our concern with what is wrong was the theme of his speech to the Jaycee convention in St. Louis some weeks ago. It has some basis.

Much of the gloom and doom polluting the national atmosphere emanates from a noisy clique in Congress. Some Senators see the end of civilization in our involvement in Southeast Asia's fight to remain independent. The same Senators see equally dire consequences if America does not take a more active part in Israel's fight to survive. Almost the same names are signed to every cry of despair over the pollution of the atmosphere, lakes and streams, and seashores. They seem to find nothing inconsistent in demanding an end to atomic power projects and an immediate end to power blackouts in the same areas.

There is a bright side to almost every problem facing this nation. In Southeast Asia, withdrawal of more and more American military units and men is accompanied by increasing self-confidence and independence among the local peoples. Instead of deploring their lack of skill with modern weapons, Americans ought to be organizing cheering squads, and maybe "bundles for Vietnam" programs to help them help themselves.

American involvement in the Middle East is nearly as old as this republic. American universities at Cairo and Beirut have educated many thousands of business and governmental leaders who now regard the current alienation between this country and the Arab states as temporary. For over two decades, we have also been in the mainstay of Israeli independence. There is a wealth of untapped good will and confidence for Secretary of State Rogers' peace proposals to take root in.

Nuclear power plants are the subject of hysterical protests. Yet in this ecology-happy era, we should note that they do not emit noxious gases, sulphur dioxide, or particle pollutants into the air. Their byproducts that do give some trouble are heat—which any energy plant involves—and radiation in fuel wastes, which can be disposed of safely. A dozen heat dissipation schemes are under study or test. Instead of screaming about possible dangers from these cleanest of all power plants, while we gag on existing air pollution, we should be rejoicing that we know how to furnish the energy needs of our growing population.

The new jumbo jets are smokeless. Older model airliners are being fitted with new engines that leave no black plumes in their wakes. The good news that this annoyance is being dealt with is drowned out by the wails of those whose only contribution to solving problems is wailing.

There is so much that is right about America, and the world, that it is unhealthy to look only at the problems not yet fully solved.

RECENT DEVELOPMENTS IN CAMBODIA

Mr. FULBRIGHT. Mr. President, on April 27, 3 days before the President's speech announcing the U.S. intervention into Cambodia, the Committee on Foreign Relations held a meeting with the Secretary of State to discuss recent developments in that country. The discussion between committee members and the Secretary concentrated on the questions concerning possible U.S. military aid to the Lon Nol government.

At the close of the meeting I asked the Secretary to supply for the record answers to a list of questions which we had either not been able to discuss or to cover adequately during the course of the meeting. Three months later on August 20, the Department submitted the unclassified replies to these questions. In view of the fact that the replies provide additional information concerning the administration's policy on Cambodia and other aspects of the war in Southeast Asia, I ask unanimous consent that the questions and answers be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., August 20, 1970.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to a mimeographed list of questions which was handed to him after his appearance before your committee on April 27, 1970.

I have enclosed the answers to your questions.

If I can be of assistance to you at any time, please do not hesitate to let me know.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

CAMBODIA

1. Would you explain how the Nixon Doctrine applies to the situation in Cambodia?

The Nixon Doctrine calls for a threatened country to make maximum efforts and assume the major responsibility for providing the manpower for its defense. Cambodia is certainly doing that. Second, the policy stresses regional cooperation and Cambodia's neighbors are providing help to assure Cambodia's continued independence and neutrality. Third, the U.S. is to assist self-help and regional actions where our participation can make a difference and this is being done through the supply of small arms and other materiel. Finally, we are also considering a program of economic assistance as are other nations.

2. (a) Does the Administration plan to consult with the Committee *before* a decision is made concerning the furnishing of arms to Cambodia? the sending of advisors? Air strikes in Cambodia?

We have already informed the Senate Foreign Relations Committee of our initial grant of 8.9 million dollars in small arms and other material to the Cambodian Government and our plans for additional military assistance. We intend to continue to inform the appropriate Congressional Committees of any further Presidential Determinations concerning assistance to Cambodia.

The President has made clear there will be no U.S. advisors with Cambodian units and that U.S. air strikes will be authorized only

as necessary to protect U.S. forces in Viet-Nam.

(b) Did U.S. personnel participate in drawing up Cambodia's arms request?

No.

(c) Will the Administration make public *any* agreement with Cambodia, or any other government, concerning U.S. aid to or military action in Cambodia? Can you assure us that there will be no repeat of the experience in Laos or Thailand?

We have no plans for any secret agreements concerning U.S. aid to, or military action in, Cambodia. We have provided the facts concerning the extent and limits of U.S. involvement in Cambodia and will continue to do so. In order to satisfy the requirements of the Foreign Assistance Act, on August 15 we exchanged notes with the Government of Cambodia whereby that government undertook to abide by the obligations of the Act. These notes in no way involve a new commitment.

3. (a) Do you think that arms can be supplied to Cambodia, and used effectively, without sending in American advisors to train the Cambodians in how to use the equipment?

The request from the Cambodian Government was for arms support only, and we are supplying small arms and other materiel that can be used immediately without advisors by the Cambodian military. We have no plans to provide more complex equipment which would require advisors for training purposes.

(b) Did the Cambodians ask for arms alone, or both arms and advisors?

The Cambodians asked for arms alone.

4. (a) Have any Asian nations offered to supply Cambodia with arms?

Yes. The Republic of Viet-Nam has supplied and intends to continue supplying weapons captured in enemy sanctuaries in Cambodia to the Cambodian government. The Thai Government has also supplied military equipment to Cambodia including river patrol craft and individual equipment.

(b) Is the United States doing anything to encourage Thailand, South Korea, or other Asian nations to give arms to Cambodia? Have we offered to reimburse, or otherwise pay for aid that other countries may give to Cambodia?

The President announced that we will encourage and support the efforts of those countries which wish to furnish Cambodia with arms and materiel. We have no present plans to reimburse nations taking such initiatives, but the question of replacement of armaments expended could arise, in which case we would hope to consult with the Committee.

(c) Would the Administration look with favor on an offer by Thailand or South Korea to send advisors or troops to Cambodia?

This would depend on the Cambodian view of any such offer, and on the military situation at the time. We do not think a large number of foreign troops are needed at present.

5. (a) Are U.S. officials consulted, or notified, in advance by the Vietnamese of plans for combat operations in Cambodia?

Yes.

(b) Have the combat operations by South Vietnamese forces across the Cambodian border been carried out with the approval of U.S. officials? If not, have any attempts been made to prevent further attacks?

ARVN operations in Cambodia are coordinated with U.S. counterparts in South Viet-Nam to prevent weakening of joint operations or defensive positions there by the deployment of ARVN forces in Cambodia.

(c) Have any U.S. personnel participated in the planning of operations in Cambodia by South Vietnamese forces?

As indicated above, to the extent that ARVN operations in Cambodia are relevant to joint operations and positions in South Viet-Nam, U.S. counterparts are consulted.

6. (a) Have any U.S. personnel—military or civilian—crossed the South Viet-Nam-Cambodian border since the trouble began? If so, give the details.

After the withdrawal of U.S. combat troops on July 1, 1970 no U.S. personnel have crossed the South Viet-Nam-Cambodian border except those assigned to, or visiting, the U.S. Embassy in Phnom Penh.

(b) Has there been any change in the orders to U.S. personnel concerning "hot pursuit" as a result of the change in the situation in Cambodia?

No.

(c) Have any U.S. aircraft flown into Cambodia, either on combat or cargo missions, since the new government took over? If so, what are the details?

This question has been overtaken by events. The Committee is aware of U.S. air strikes to interdict enemy supply and troop replacement activities, as authorized and announced by President Nixon. There have also been flights carrying arms for the Cambodian Government, as well as supply and support missions for our Embassy at Phnom Penh.

7. What is your assessment of Viet Cong and North Vietnamese intentions in Cambodia? Do they view the developments there as favorable to their objectives?

In view of recent developments in Cambodia, we suspect that the Communist Vietnamese themselves are unsure of their ultimate objectives there. It will take them some time to reorganize and resupply their operations. In view of this fact, it is very difficult to estimate whether they view recent developments as favorable to their interests or not. Clearly, our attacks on their sanctuaries delivered a severe blow to their short term interests.

8. (a) Do you think Cambodia's forces could hold out if the enemy forces make a determined effort to take over the country?

In order to answer such a hypothetical question we would have to know with complete accuracy enemy intentions and capabilities. However, the Cambodian forces (FANK) recently have shown an increasing capability to fight effectively on their own.

(b) If not, how much help would they need from outside sources—in personnel and supplies? What effect would this have on the military situation in South Viet-Nam?

We are studying Cambodia's needs at the present time pursuant to its request for military aid, and we are heartened by the determination shown by the Cambodian Government thus far in its own defense. The amount of assistance Cambodia would need if the enemy made a "determined effort" would be a function of the assets which the enemy would be prepared to devote to the conquest of Cambodia and this, of course, is impossible to determine.

(c) What effect would a Communist takeover in Cambodia have on the U.S. position in South Viet-Nam? In Laos?

If the Communists were to take over and secure all Cambodia, giving them, *inter alia*, free access to the deepwater port of Kompong Som (formerly Sihanoukville) there would be a serious adverse effect on our position in South Viet-Nam and Laos.

(d) What are the alternatives available to the United States if the Communists should move to take over Cambodia?

As noted above, the intentions of the Communists are unclear. In any event, the President, in recent public statements, has clearly defined the policy we will follow in Cambodia.

(e) What would the United States do if Sihanouk returned to Cambodia and set up a government in the Viet Cong controlled area?

Again, we are not prepared to speculate upon questions of such a hypothetical nature. If Sihanouk were to return to Cambodia our policy would be contingent upon a consideration of other related, and as of now indeterminate, factors.

9. (a) What are the prospects for the development of a united front against the United States by the enemy forces of North Viet-Nam, South Viet-Nam, Laos and Cambodia?

The above mentioned enemy forces already operate as a *de facto* united front. If they were establish a united front in name, the military situation would not be altered to any significant degree.

(b) What would be the likely effects of such a move?

The enemy might attempt to exploit such a move as a propaganda victory.

10. How many U.S. government personnel are now in Cambodia? Are there any plans for sending more people in, even on a temporary basis?

All operational military personnel have been withdrawn from Cambodia. 36 positions have been authorized at the U.S. Embassy, of which 9 are Defense Attaches and 5 Marine Guards. Only 24 of the 36 have arrived on post, but 26 additional personnel are on temporary duty in connection with reconditioning of the new Chancery and establishment of other facilities. This staffing pattern will be subject to reconsideration, as conditions require.

11. Is the Administration giving consideration to permitting U.S. bombing of enemy bases in Cambodia? What would be your position if such a request came from our military officials?

Covered by 2(a) above.

VIET-NAM

1. Did the President's speech last week represent, in any way, a change in U.S. policy? If so, in what respect?

The President's April 20 speech and his TV news conference in Los Angeles on July 20 did not represent any change in U.S. policy. The President also made clear, in response to a question, that President Thieu's position with regard to negotiation is "on all fours" with ours. "We have consulted with him and he with us before any negotiating positions have been presented."

2. Is the United States considering any new initiatives in Paris? the replacement of Ambassador Lodge?

As President Nixon has said, Ambassador David K. E. Bruce, the new head of our delegation in Paris, has wide latitude in the negotiations. We hope our move in sending a senior negotiator will be reciprocated by the North Vietnamese and that serious negotiations will ensue.

3. Do you think the military situation in South Viet-Nam has improved, or deteriorated, as a result of developments in Cambodia?

The military situation in South Viet-Nam has improved considerably since the beginning of the combined allied attacks on the North Vietnamese sanctuaries in Cambodia. The destruction and capture of arms and supplies have prevented the enemy from mounting large offensives in the center and south, thus allowing Vietnamization and pacification to proceed with less interference than before. Operations against North Vietnamese forces in Cambodia have confirmed that an impressive improvement has taken place in the South Vietnamese Army (ARVN) recently. These operations have also increased ARVN confidence and self-reliance.

4. Are there any plans for replacing Ambassador Bunker?

There are no present plans for replacing Ambassador Bunker.

LAOS

1. Has there been any change in the basic military situation in Laos in recent weeks?

There has been little or no change in the basic military situation. The rainy season, which slows down North Vietnamese military activities, is in full progress. The capture of

Saravane by North Vietnamese troops on June 9 was more significant as a political psychological setback for the Royal Lao Government (RLG) than it was as a military one. Nonetheless, although north Laos has quieted, continued hostile pressure in south Laos, particularly in the area contiguous to northeast Cambodia, continues to concern us.

2. (a) What effect, if any, have developments in Cambodia had on the political situation in Laos?

The political situation in Laos bears a close relationship to the course of military events in the field. The allied operations against communist lines of communication in Cambodia probably contributed to the North Vietnamese decision to attack isolated Government-held pockets in south Laos, thereby provoking discussion in Vientiane about the viability of neutralism. The U.S. government has made it clear that our support both for the Prime Minister and Lao neutralism remains steadfast.

(b) Have there been any further exchanges between the Pathet Lao and Souvanna Phouma?

Prince Souphanouvong wrote on June 12 to Souvanna Phouma essentially reiterating the Lao Popular Front (LPF) terms of March 6 which called for an unconditional halt in U.S. bombing as a prelude to talks among the Lao factions. The RLG replied on June 25 that the LPF precondition of a complete and unconditional halt in American bombing in Laos, without the withdrawal of the more than 60,000 North Vietnamese troops in Laos, was unacceptable. The RLG, however, reiterated its willingness to send representatives to talk with Souphanouvong's envoys, and proposed a site. The RLG also said that a bombing halt could be dealt with as a priority topic in talks between the Lao factions. In early July, the Pathet Lao representative in Vientiane told the Prime Minister that a high-ranking LPF emissary would be sent to carry the LPF's formal reply to the RLG and would be empowered to discuss modalities for holding talks. This emissary, Prince Souk Vongsak, arrived July 31 and he has entered into preliminary discussions with Souvanna and other members of the Government. From these discussions it is still not yet completely clear whether the LPF has abandoned its bombing halt precondition as the price of beginning the talks, but in any event this item will be of first order of priority if and when talks are held. Further discussions with Souphanouvong's emissary—possibly including reference back to LPF headquarters—will be necessary to conclude final agreement on modalities put forth by the two sides.

3. What is your assessment of North Viet-Nam's intentions in Laos?

The North Vietnamese intend to protect their western border with a band of territory sufficiently controlled so that their war effort in South Viet-Nam can proceed and major threats to the homeland are avoided or minimized. They doubtless further wish to see areas immediately to the west (i.e. the Mekong valley), if not directly under their hegemony, at least not in unfriendly hands.

4. What has been the reaction from the Soviet government to the release of the transcript of the hearings on Laos? From China?

At the time it was released publicly, the report of the Symington Subcommittee hearings on Laos was mentioned prominently in the Soviet mass media. The Soviets maintained that public and Congressional pressures had forced the Nixon Administration to acknowledge certain U.S. military actions in Laos.

Although the Symington Subcommittee transcript provided the Soviet media with readily usable source material, it did not cause a basic shift in the Soviet position.

The Symington report was briefly mentioned in the first week of May in New China News Agency broadcasts, but was not mentioned in later broadcasts. (It was incorporated in a long and detailed propaganda blast in English to Southeast Asia by the Pathet Lao Radio on July 21 commemorating the 8th anniversary of the signing of the Geneva Agreements.)

5. Do you think that it is possible to reach any kind of settlement on Laos as long as the war in South Viet-Nam continues?

In view of the many interconnections between the situation in Laos and the war in South Viet-Nam, particularly the North Vietnamese use of the Ho Chi Minh trail, it is difficult to foresee a long-term settlement in Laos at this time. However, current exchanges between Souvanna and Souphanouvong may indicate that some aspects of the Laos situation can be worked on despite the continuation of the war in South Viet-Nam.

SOUTHEAST ASIA ISSUES IN GENERAL

1. (a) Do you think the prospects for bringing peace to Southeast Asia are better, or worse, now than they were before the fighting began in Cambodia?

As a result of our operations in Cambodia the enemy is in a weaker position. It remains to be seen whether they will now begin to negotiate seriously or whether they choose to prolong the fighting. Nevertheless, our operation has won time for the South Vietnamese to train and prepare themselves to carry a greater burden of their defense, and it has contributed to the continuance and success of our withdrawal program.

(b) Has the United States political position improved, in your view, as a result of recent developments? Is the United States negotiating position better?

The United States political position has improved in the sense that more of the world is now aware of what the Communists have been doing and continue to do in Cambodia. Strictly speaking, our negotiating position remains the same: that is, we have publicly and privately offered generous and forthcoming proposals for settlement of the war; we have not presented these proposals on a take-it-or-leave-it basis, but we are quite prepared to discuss them. We have appointed Ambassador Bruce as head of our delegation in Paris, and we have given him great flexibility in the conduct of the negotiations. The other side remains intransigent, but we hope they will soon recognize that it is in their best interests to negotiate, now rather than later.

(c) How do you think the other side views the recent developments—as a setback for them or as creating a greater dilemma for the United States?

As the President said, the Cambodia operation, from a military point of view, was the most successful operation of this long and difficult war. To world opinion the communist occupation of large areas of Cambodia is a blatant violation of Cambodia sovereignty and neutrality. The other side must certainly recognize that it has suffered these setbacks. On the other hand, so long as the Cambodian government is in a weak and precarious position, the other side hopes that we will face an insoluble problem of helping the Cambodians defend themselves while carrying out our troop withdrawals from Viet-Nam.

2. (a) Are developments in Cambodia likely to have any effect on Russia's willingness to help bring the war to an end?

The Soviets recognize that an expanded or protracted war in Indochina would ultimately be to the benefit of China and to their own disadvantage. In order to maintain their influence in the area, they would seemingly want to help end the war. Nevertheless, it remains true that they are anxious to avoid the appearance of forcing Hanoi to make any substantial concessions to the U.S.

(b) If China encourages a united front in Southeast Asia against the United States, can the Soviet Union afford to do any less?

Certainly one of the motivations of the Soviet Union is its concern with maintaining influence with the Communist parties of Southeast Asia, particularly with that of North Viet-Nam. Naturally, Chinese actions to increase its degree of influence in SEA must be taken into account by Moscow in determining its own positions on such issues as the united front.

(c) Do you think the Soviet Union is likely to agree to a Geneva-type conference as long as North Viet-Nam is opposed to such a move?

Probably not, because of the strong tangible and ideological interests which bind the two.

3. Do you think that recent developments in Southeast Asia make it more imperative that there be a political settlement which affects the entire area?

Recent developments indicate the continuing desirability of a political settlement, without which dangers of expansion or escalation of the war remain, regardless of current military trends. A viable peace must be based upon a general agreement that all the countries of Southeast Asia have a genuine political role to play in the future of the region, and without such an agreement a limited but highly undesirable level of hostilities could persist indefinitely.

WORLD BEGINS TO REALIZE JUSTICE OF COMPLAINTS AGAINST NORTH VIETNAMESE FOR PRISONER CRUELTY

Mr. HANSEN. Mr. President, this is the last day of August, and for most Americans that means summer is nearly at an end. It has been a summer of great concern for America, concern about the war in Vietnam, and concern about domestic tranquillity. For some this concern has been self-centered and in some cases self-serving. But for most Americans this concern has gone far beyond self and has centered on the great issues and problems of the day.

Among the issues that have been the focus of attention has been that of the Americans being held prisoner by the North Vietnamese. Although few in number, these Americans have become a cause that far outstrips their numerical strength. They have, indeed, become a thorn that pricks the conscience not only of this Nation but of the world.

The brutal and inhumane treatment to which these men have been subjected has caused a great revulsion against the Communists both here in America and among thinking, feeling people the world over. By the tactics they have used the Communists have demonstrated to the world the nature of their system and the harshness of their type of government.

We in America must continue through the coming seasons to work with utmost diligence and skill toward the release of these American prisoners. In the task we can now count on more and more support from all free nations everywhere. Our cause is just; the realization of its justice is spreading across the globe.

STATUS OF HUMAN RIGHTS CONVENTIONS

Mr. PROXMIRE. Mr. President, today I wish to review the status of the major human rights treaties pending before the

Senate. For more than 3 years I have urged the Senate to ratify three of these treaties—the Genocide Convention, the Political Rights of Women Convention, and the Convention of the Abolition of Forced Labor. As of today, none of these have been ratified by the Senate. Hearings were first held on the Genocide Convention in 1950. No further action was taken on the convention until just recently, when the Committee on Foreign Relations reopened hearings. Unfortunately the committee has not yet reported the treaty to the Senate.

Hearings were held on the Political Rights for Women Convention in 1967 in the Senate Foreign Relations Committee. Like the Genocide Treaty, it has never been reported out of committee.

The Convention on the Abolition of Forced Labor was submitted to the Senate on January 22, 1963. Hearings were held on the treaty in 1967, but the Foreign Relations Committee did not report it for Senate action.

Mr. President, we cannot delay action on these treaties any further. I strongly urge members of the Foreign Relations Committee to give these treaties careful consideration. Senate action on the Genocide Convention is long overdue. Twenty years have passed since hearings were first held on the treaty. There can be no excuse for delay in ratifying these treaties. I urge the Senate to act on these treaties now.

NIXON ADMINISTRATION PROGRESS ON THE INFLATION FRONT

Mr. BENNETT. Mr. President, the efforts of the Nixon administration to bring the inflation which it inherited under control without seriously disrupting the economy continues to make progress. Even the President of the AFL–CIO, Mr. George Meany, in an interview published in this morning's Washington Post, concedes that the economy is basically sound.

I think the President and his economic advisers are to be commended for their efforts and policies in helping to stop inflation gradually and in a reasonable way without any economic reversals and without a costly recession.

President Nixon has proved to be a farsighted and capable manager of domestic economic problems. Recently the Detroit Sun News and the Des Moines Register published editorials describing the Nixon policies. I ask unanimous consent that these editorials be included in the RECORD as a reflection of responsible press opinion recognizing that problems do exist in the economy but also admitting that President Nixon is having success in pursuing the only reasonable alternative.

My purpose in doing this is to counteract those prophets of gloom who in the forthcoming election will try to blame all of the economic problems on President Nixon, who inherited them but has managed to bring them under control without serious disruption. This coupled with his continuing success in the field of foreign policy convinces me that we have at the helm a wise and able administrator.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

YEAR OF THE TURTLE?

It's exasperating but it looks as though 1970 will be the Year of the Turtle. The economy is moving slowly but surely along a plateau just above recession and just below rapid growth. In many ways, it is the best course even though the nation has never had turtle-like patience in waiting for economic recovery.

The spurt of economic news, mostly statistical, coming from Washington in recent days is "quietly encouraging." The indicators show the economy is growing, although marginally and with persistent but moderating inflation.

As a result, fears of a deep or prolonged recession no longer seem reasonable even as an outside chance. Still, the figures are not exuberant enough to justify the expectation of a surging economic rebound. We know the economy, like the turtle, is moving but it's hard to resist the temptation to push it along a bit faster.

Yet what other course would we choose? With unemployment at 5 percent and likely to go higher on a temporary basis, no one wants the economy to halt dead in its tracks. With inflation still proceeding at a 4.3 percent annual rate in the June quarter, few people would trade the turtle for the hare.

Our economic goal is full employment with relative price stability. We stand a better chance of reaching the goal line with a steady turtle than the flash and fade-out of the fabled hare.

"RECESSION" ENDED?

The major economic activity indicators showed a modest rise in July, and the economy managed a slight growth in output of goods and services in the second quarter of the year. The statistical trend has changed enough to cause several government economists to say the "recession" has ended.

Actually, the performance of the economy in the last year has been such as to hardly justify the term "recession." The turndown in GNP in the last quarter of 1969 and first quarter of 1970 was very small. Industrial production this July was only 3 per cent below that of July 1969. In the postwar recessions of the 1950s, industrial output fell from 5 to 14 per cent.

However, it is premature to declare "no recession." One reason the industrial production index rose in July was the return to work of several large groups of strikers. Without their return, the figure would not have looked so good. Industrial output also rose last March, with three successive declines after that.

If the downturn in GNP really has reached bottom, as optimistic government economists think, the Nixon Administration will be in a position to claim a "first" in economic management.

In a time of serious inflation, President Nixon has had the nerve to avoid the slam-bang, crackdown type of inflation restraint which appealed to former Treasury Secretary George Humphrey. Instead, he has insisted upon gradualism in both fiscal and monetary policy. He has chosen to permit a greater degree of inflation rather than to precipitate a serious recession and heavy unemployment.

This episode is not yet over. Inflation is still troublesome, although there have been some recent signs of cooling down. The stock market is still sagging and dragging. Unemployment stands at 5 per cent. Nixon and his advisers are not out of the woods and may yet have to turn to stronger measures than the wage-price "alerts" they have started issuing.

But the July economic figures indicate that the deep recession predicted to set in this fall has been stalled off, if not prevented. That is a considerable feat. It is especially noteworthy that Nixon, a Republican with broad support among businessmen and financiers, has been able to take a "liberal" line in economic policy. That is, he has chosen a policy which favors people over dollars; employment stability over "sound currency."

Nixon was greatly impressed by the three recessions of the 1950s, while he was Vice-President, and he has learned something from them.

THE SST: THROWING GOOD MONEY AFTER BAD

Mr. PROXMIRE. Mr. President, last week the Janesville, Wis., Gazette published an excellent editorial on the SST, which hits the nail on the head. The editorial urges the Senate not to be swayed by the fact that we have already spent $700 million on this frill into voting money for a venture which "could cost taxpayers $3 billion, earn little or no return, pollute the upper atmosphere and benefit few people except for the Boeing Corp. and jet-set travelers who want to get to Europe a few hours sooner."

The editorial also has the perfect answer to Congressman BROWN's suggestion that we might have never discovered the New World if the Joint Economic Committee had been advising Queen Isabella in 1942. The Gazette notes:

We can think of a more pertinent analogy: If the efficiency committee had been advising Congress when funds were first committed for the SST, we would be $700 million to the good right now instead of $700 million in the hole. Too bad it wasn't.

Mr. President, I ask unanimous consent that the editorial entitled "Throwing Good Money After Bad," published in the Janesville Gazette of August 24, 1970, be printed in the RECORD. I also ask unanimous consent that excerpts from the report of August 17, 1970, by the Economy in Government Subcommittee of the Joint Economic Committee entitled "Federal Transportation Expenditure" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THROWING GOOD MONEY AFTER BAD

We heartily concur with a Senate efficiency panel's recommendation that the government get out of the program to develop a supersonic transport plane (SST).

This commercial venture financed at public expense ($700 million so far) could cost taxpayers $3 billion, earn little or no return, pollute the upper atmosphere and benefit few people except for the Boeing Corporation and jet-set travelers who want to get to Europe a few hours sooner.

The House, to its discredit, has approved $290 million more for this airborne white elephant. Now the Senate is being asked to do the same.

Sen. William Proxmire of Wisconsin, chairman of the efficiency committee, opposes any additional funds for the SST. "If Congress succeeds in reordering priorities this year, there is no doubt in my mind that the SST will wind up right at the bottom of the list, where it belongs."

Rep. Clarence J. Brown of Ohio, however, dissented from the majority viewpoint, saying that if the efficiency panel "had been advising Queen Isabella, we would all still be in Barcelona waiting to prove the world round before daring the Atlantic."

We can think of a more pertinent analogy: If the efficiency committee had been advising Congress when funds were first committed for the SST, we would be $700 million to the good right now instead of $700 million in the hole. Too bad it wasn't.

FEDERAL TRANSPORTATION EXPENDITURE

I. INTRODUCTION AND SUMMARY

In May of this year, the Subcommittee on Economy in Government of the Joint Economic Committee held hearings on Federal transportation expenditure policy. This examination was part of the subcommittee's continuing study of Economic Analysis and the Efficiency of Government. This subcommittee does not yet regard this study as complete and hopes to continue its examination of Federal transportation policy as well as of other major Federal activities which lend themselves to economic analysis. We have as yet given little attention to such important areas of Federal transportation expenditure as airport and airways development or rail transit. Nor have we fully examined the regulatory aspects of Federal transportation policy. However, the hearings which we have already held have revealed some serious deficiencies in the economic analysis available to Congress. Thus we feel it is important to report at this time, in order that the Congress may have available the results of our study as it proceeds with major transportation expenditure decisions during the current session.

Our report is concerned both with the general capability of Congress and the executive branch to conduct and to evaluate economic analyses of transportation programs and with the application of general principles of economic analysis to the Federal-aid highway program and to the supersonic transport development program. Our principal conclusions are as follows:

A more unified approach to transportation expenditure decisions is needed, in Congress as well as in the executive branch.

The provisions of the Department of Transportation Act relating to the Department's authority to conduct investment analysis should be re-examined. If it is found that these provisions restrict the Department's authority to perform investment analysis essential to Government program efficiency, the law should be amended.

The executive branch should provide the Congress with more comprehensive analysis of the social costs and benefits of Federal transportation programs, and Congress should improve its capability for evaluating such information. Since existing authorizations for the Interstate Highway System extend into fiscal 1974 Congress would be well advised to postpone action on further authorizations until more adequate analysis of the social costs and benefits of further Interstate Highway expenditures can be made available.

NOTES

Senator John Sparkman states: "The responsibilities of my position as Chairman of the Senate Banking and Currency Committee, together with my other committee assignments, made it impossible for me to participate to any great extent in the hearings leading up to this report. Accordingly, I do not feel that I should join in it."

Senator Symington states: "Because of unusually heavy commitments in connection with other committee responsibilities, I was unable to participate in all the hearings on which this report is based; therefore I do not wish to endorse it."

Transportation expenditures should be subjected to all the usual procedures of budgetary review. Congress should take such legislative action as is required to provide for the orderly but expeditious phasing out of the highway trust fund and the return to the financing of transportation expenditures out of general revenues.[1]

Federal programs of highway aid should contain incentives for the development of efficient road pricing. Existing Federal restrictions on the use of tolls should be reexamined.

The diversity of Federal financing formulas which distorts choices among alternative types of transportation investment should be corrected, and restrictions on the uses to which States can apply revenue from State gasoline and motor vehicle taxes should be removed.

The Federal aid highway program, the supersonic transport development program, and most other transportation investment programs clearly fall within the scope of section 102 of the National Environmental Policy Act of 1969, which requires full reporting of the environmental consequences of proposed Federal programs. Authorization and appropriation requests for these programs should not be approved until the required information has been supplied.

Few significant public benefits appear likely to result from the supersonic transport (SST) development program. On the other hand, very significant social costs are associated with this program. More productive uses of Government resources are clearly available. No further Federal financial support of the supersonic transport development program is justified at this time.

If the SST program is continued, the total cost to the Government is likely to reach $3 billion or more. There is little prospect that the Government will earn a reasonable rate of return on its investment. It is entirely possible that the Government will recover none of this investment.

Unless new technology for reducing engine noise can be developed, adherence to the administration's commitment to avoid degradation of the noise environment in the vicinity of airports—a commitment which we strongly support—will make it difficult or impossible for the SST to operate from existing U.S. airports.

The British-French Concorde does not pose a competitive threat of sufficient magnitude to justify continued Federal Government support of the U.S. SST.

Further work on the SST prototype is premature at this time. Research efforts should be concentrated on investigating the effects on weather and climate of introducing additional moisture into the stratosphere; on new technology to reduce engine noise; and on efforts to eliminate the sonic boom. When more progress has been made in overcoming these serious environmental effects, the SST may look like a much more attractive commercial proposition. When the SST does become an attractive commercial proposition, we believe that private financing will be available, and there will be no need for direct Government investment in SST development.

II. ECONOMIC ANALYSIS OF FEDERAL TRANSPORTATION EXPENDITURE

The establishment of the Department of Transportation in 1967 was envisaged as a major step toward coordinated transportation policy decisions; decisions based on analysis of investments in different modes of transportation as alternative means of meeting the Nation's need for mobility; decisions designed to produce fast, safe, and convenient transportation in an efficient manner. The opening sections of the Department of Transportation Act state:

SEC. 2. (a) The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

(b)(1) The Congress therefore finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service. * * *

As yet these goals remain far from realization. The Department of Transportation is handicapped by legislative restrictions which discourage the needed analysis of alternatives. The way in which Congress handles transportation legislation—with urban mass transit considered by the Banking and Currency Committees, highways by the Public Works Committees, other forms of transportation by the Commerce Committees, and trust fund legislation by the Ways and Means and Senate Finance Committees—places further obstacles in the way of a coordinated approach to transportation policy.

A more unified approach to transportation expenditure decisions is needed in Congress as well as in the executive branch. The decisionmaking process should be organized so as to permit and require full review both of the relative costs of alternative ways of meeting a given transportation need and of the priority which a proposed transportation investment should be accorded relative to alternative uses of public resources.

Legislative restrictions which discourage adequate investment analysis should be removed

Section 4(b)(2) of the Department of Transportation Act states:

Nothing in this Act shall be construed to authorize, without appropriate action by Congress, the adoption, revision, or implementation of—

(*a*) any transportation policy, or

(*b*) any investment standards of criteria.

Section 7(a) reads in part:

The Secretary, subject to the provisions of Section 4 of this Act, shall develop and * * * revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with * * * (5) water resource projects; or (6) grant-in-aid programs authorized by law.

Both the general prohibition of section 4(b) and the major specific exceptions to section 7(a) would appear to seriously restrict the authority of the Department of Transportation to conduct investment analysis. In 1968 Dr. M. Cecil Mackey, who was at that time Assistant Secretary of Transportation for Policy Development, supplied the following statement in response to questions raised by this subcommittee concerning the possible need to amend these sections of the Department of Transportation Act:

There would not appear to be special reasons for imposing particular restrictions such as those in sections 7(a) and 4(b)(2) on DOT's authority to manage its programs * * *. The amendment of section 7(a) of the Department of Transportation Act would facilitate implementation of effective economic analysis. There does not appear to be any important administrative or noneconomic reason why the act should remain as it is.[1]

Another witness, testifying before the subcommittee in September 1969, interpreted these two sections of the Department of Transportation Act as "explicit caveats" against engaging in "economic analysis of costs, benefits, and appropriate discount

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rates."[2] While the present Assistant Secretary of Transportation indicated in our most recent hearings on this subject that he did not feel these provisions were "unduly restrictive," and were designed "to insure that rigid cost-benefit criteria are not * * * made a benchmark against which projects wind up on a go-no-go basis," the subcommittee feels that, at the very least, these provisions of the law should be reexamined with respect to their effect on the authority of the Department to perform needed economic analysis.

Legislative restrictions which discourage or prohibit adequate investment analysis should be removed. The relevant provisions of the Department of Transportation Act should be reexamined. If it is found that they restrict the authority of the Department of Transportation to perform investment analysis essential to Government program efficiency, the law should be amended.

Social costs and benefits must be fully included in investment analysis

While cost and benefit estimation is a valuable tool in the decisionmaking process, it is subject to abuse if the concepts are applied too narrowly. Since Congress is concerned with the public value of Federal investments, the social, or external, costs as well as the direct monetary costs must be fully considered. A similarly broad concept must be applied to the estimation of benefits.

In the case of highways, for example, the social costs include such things as noise, air pollution, dislocation of homes and businesses, neighborhood disruption, creation of barriers between neighborhoods, loss of recreational lands, and the like. Some of these, such as housing dislocation, are at least partially reflected in the actual dollar costs to the Government of highway construction. Others such as noise and air pollution are not (except to the limited extent that damages may have been awarded to individuals who have brought court actions). Some of the social costs, such as neighborhood disruption, are extremely difficult, and in some cases impossible, to quantify. Additional efforts to measure such costs should be undertaken. Where such costs cannot be quantified, they can and must be explicitly recognized as qualitative factors which should be fully considered in making program judgments.

In the case of benefits, such relatively simple techniques as the estimation of traffic volume obviously are not a sufficient measure of social benefit. A rural highway may have a relatively low traffic volume, but it may provide residents of the area with their only means of mobility, and hence their only access to jobs, schools, and community services. It may open up to industry and tourism areas which were previously inaccessible. By contrast, a new urban highway may bring more cars onto already congested city streets, while at the same time discouraging use of alternative means of transportation. In this latter case, the volume of traffic using the road may on balance be a cost to urban residents and commuters rather than a benefit.

It is also necessary to know how the social costs and benefits of a transportation investment will be distributed among different groups in the population. In the case of highways, for example, the benefits accrue largely to users of the highway (although many of these might prefer alternative means of transportation if adequate alternatives were available) and to owners of strategically placed commercial property. Under our present financing system, the dollar costs of highway construction are paid by purchasers of gasoline, tires, and diesel fuel, regardless of the extent to which they will benefit from the construction of a particular highway. The costs of highway maintenance and repair, as well as the cost of feeder roads, are not, however, financed from Federal gasoline taxes.

Many of the social, or external, costs of highways are paid either by those who must move out to make way for the highway or by those who must continue to live in close proximity to it. Another, more generalized type of social cost is borne by the substantial fraction of the population who are nondrivers—the young, the aged, the poor. These groups are at a growing relative disadvantage as society becomes increasingly dependent on the private automobile. Is it good public policy to assess costs against some groups in order that other groups may benefit? This is a judgmental question relating to the real distribution of income in our society. Fuller information as to the probable distribution of costs and benefits would improve the ability of the Congress to make wise judgments.

The highway "need" estimates contained in the national highway needs reports, which are required to be submitted to Congress every 2 years, are not based on these broad considerations of social cost and benefit. "Need" as used in these reports refers to "capacity adequate to accommodate the highway travel forecast for a given target year."[3] Since funds are apportioned to the States in accordance with their estimated "needs," the financing system contains a considerable incentive to produce inflated travel forecasts. Furthermore, there is persuasive evidence that the "demand" for highways, as measured by traffic volume, is partly a function of highway availability. Increasing the highway mileage may merely stimulate more automobile travel.

Based on the misleading concept of equating need with travel forecast, the most recent highway needs report estimates that there is a "need" to devote $320 billion worth of our national resources to road construction over the next 15 years. We do not believe that anything like this enormous sum can or will be spared for road construction. The crucial question, however, is: Which parts of this total highway "need" offer a social rate of return sufficient to justify the expenditure of public funds? A more specific and pressing question which the Congress must decide is the extent to which the social value of the remaining segments of the Interstate Highway System justifies the authorization of additional funds. It is now estimated that completion of the presently designated 42,500 mile system will require approximately $12 billion in Federal funds, beyond currently authorized amounts, and this estimate contains no allowance for any future cost increases.

At our recent hearings, Assistant Secretary of Transportation Baker described to the subcommittee analytic efforts currently being undertaken by his Department which are designed to yield conclusions about the comparative value of investment in different modes of transportation. The target date for completion of this analysis is not until 1972. In the meantime, the background information needed to make a major new decision on Federal-aid highway authorizations is simply not available.

In making transportation expenditure decisions, Congress needs access to more comprehensive analysis of social costs and benefits than is currently available. The appropriate agencies of the executive branch should make such information available at the time authorization requests are introduced, and Congress should improve its capability for evaluating such information. Specifically, such analysis should include:

(1) Estimates of the full costs and benefits of proposed transportation investments. External costs and benefits should be included, and an adequate discount rate should be applied to the estimation of future benefits; (2) estimates of the distribution of the costs and benefits of the proposed project among different groups in society, together with an analysis of the extent to which fully adequate compensation of those who are adversely affected by such investment is feasible.

Adequate information of this type is not presently available with respect to uncompleted portions of the Interstate Highway System. Since existing authorizations for the Interstate System extend into fiscal 1974, we believe Congress would be well advised to postpone action on further authorizations until more adequate analysis of the social value of further Interstate Highway expenditures can be made available.

If there are proposed sections of the Interstate System which cannot demonstrate a high social value, Congress should have this information when further authorizations are considered.

Federal Transportation Expenditures Should Be Subjected to Regular Budgetary Review

The previous two sections of this report have stressed our belief that more complete economic analysis of proposed transportation investments is essential. Such analysis will really be of value, however, only if our financing system is sufficiently flexible to permit rational use of the analytic evidence. Evidence that a particular transportation need can be met most efficiently by improving the public transportation system, for example, is apt to be ignored if funds are available only for highway construction. Similarly, evidence that urban transportation problems could best be eased by enabling people to live closer to their jobs may be primarily of academic interest if funds are available for transportation systems but not for housing and urban reconstruction.

From its initiation in 1916 until 1956, the Federal aid highway program was financed out of general revenues, so that highway appropriations were subjected to all the usual procedures of budgetary review. In the mid-1950's, it was decided to give a very high budgetary priority to the construction of a comprehensive national highway system. A special financing arrangement, the highway trust fund, was created. Revenues from the Federal gasoline tax and certain other motor vehicle-related taxes were placed in this fund, and the use of these revenues was restricted to the financing of federally aided highway construction.

The receipts of the highway trust fund now exceed $5 billion per year. Total receipts from 1956 through its scheduled expiration date in September 1972 will approach $60 billion. For 15 years now this important source of revenue has been insulated from any real consideration of the relative value of highway and nonhighway uses. We believe the time has arrived when provision should be made for Congress to again have the opportunity to review annually the uses of this revenue.

It is sometimes argued that it is somehow unfair to use revenues from the gasoline tax and other road-user charges for anything except highway construction. There are several reasons why we do not accept this argument. First, since the average family finds it very difficult to get along in today's world without an automobile, this family has little choice except to pay gasoline taxes. There is no logical basis for regarding payment of these taxes as a "vote" for more highways. Second, we do not view our other excise taxes this way. Alcoholic beverage taxes, for example, are not used to build distilleries, nor are they dedicated to use in constructing facilities for the treatment of alcoholics. Third, even if we were to accept the view that the proceeds of the gasoline tax should be expended only for the benefit of road users, new highways are clearly not

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the only investment from which road users might benefit. A witness at our recent hearings told of a study he had made indicating that 35 percent of the benefit of a proposed new subway line would accrue to road users, rather than subway users.[4] Yet we do not finance rapid transit from the gasoline tax. Many road users would benefit from making our central cities livable again, so that urban streets would be less clogged with commuters from the suburbs. Yet we do not finance urban reconstruction through the gasoline tax.

There have recently been a number of proposals put forward for broadening the uses to which highway trust fund revenues can be put. These range from the relatively modest proposals put forward by the administration this year to finance forest and public land highways and the highway safety and beautification programs out of the trust fund to sweeping proposals to finance Federal investment in all modes of transportation out of a general trust fund made up of receipts from all the existing Federal transportation user charges, perhaps supplemented by transfers from general revenues.

The Assistant Secretary of Transportation indicated in his testimony before our subcommittee that the Department has various proposals for a general transportation trust fund under active consideration. Several other witnesses at our recent hearings advocated this general trust fund approach. Many of their arguments are quite persuasive. A general trust fund offers one major advantage over the proliferation of separate trust funds for the various modes of transportation, a proliferation evidenced by the establishment this year of an airport-airways trust fund. With a general trust fund it would become possible to allocate funds rationally among transportation modes choosing in each individual situation the mode which will most efficiently and effectively serve our need for mobility.

The disadvantage of the general transportation trust fund approach arises when we come to the question of a rational allocation of budget resources between transportation and nontransportation uses. How can we be sure that we would not lock ourselves into a situation in which we would overinvest in transportation while underinvesting in other aspects of economic development and public well-being? There is clearly, for example, a tradeoff between patterns of residential location and our need for urban transportation. But the establishment of a general transportation trust fund would provide no incentives to analyze housing investment and transportation investment as alternative solutions to the problem of urban mobility, nor would it provide the opportunity to allocate expenditures in accordance with the results of any such analysis.

Thus, while some broader concept of a transportation trust fund would contribute to a more rational allocation of Federal expenditure than at present, this objective would be more completely realized by a return to the financing of transportation investment out of general revenues. There is, of course, need for some assurance of financing continuity where investment projects take several years to complete, but this problem is not unique to transportation investment, and we believe it can be satisfactorily handled without the segregation of revenues into special funds.

Transportation expenditures should be subjected to all the usual procedures of budgetary review. In keeping with the previous recommendation of this subcommittee, subsequently endorsed by the full Joint Economic Committee, that "the trust fund should be abolished as an instrument for financing Federal programs involving investment, construction, or the provision of facilities or services," Congress should take such legislative action as is required to provide for the orderly but expeditious phasing out of the highway trust fund and the return to the financing of transportation expenditures out of general revenues.[5 6 7]

Economically efficient pricing of publicly provided transportation facilities is lacking

One aspect of transportation policy on which we found widespread agreement among our witnesses was that in the United States we have largely failed to employ user charges as a method of insuring efficient use of publicly provided transportation facilities. User charges for services and facilities provided by government are the equivalent of the prices which are charged for goods and services in the private marketplace. These prices perform the important function of efficiently allocating resources among competing uses. If the price (user charge) is below the cost of the service, demand for the service will be greater than if the user had to pay the full cost, and resources will be diverted to this use which would be more productive in other uses. Users of the service will be being subsidized by someone. Where there is some public purpose to be served by encouraging use of a particular service, an argument can, of course, be made for public subsidization of that service. In such cases, however, the extent of the subsidy should be explicitly recognized and weighed against alternative uses of public resources.

The purpose of user charges for those parts of our national transportation system provided through the private market is well understood. Travelers by train or commercial airline buy a ticket, the price of which is at least roughly related to the cost of operating the service. The role of user charges for those parts of the transportation system provided by the public sector is much less well understood. Introduction into general usage in this country of the British term "road pricing," or more generally, "transportation pricing," would aid in gaining wider public understanding of the pricing function served by user charges.

There are many aspects of our present transportation pricing system which violate principles of both equity and economic efficiency. Public subsidization of general aviation is one glaring example. Another, which we discuss later in this report, is the potential subsidization of supersonic flight by passengers on subsonic flights. Road pricing is another major area where public policy has failed to follow sound economic principles.

Road pricing, in the form of tolls, was at one time quite common in this country, but with the development of the Federal aid highway program this approach was largely abandoned. Federal law now provides that, with certain exceptions related to the retirement of bonded indebtedness, all highways built with Federal aid "shall be free from tolls of all kinds." Highways today are financed by the gasoline tax and other related charges, but these Federal funds can be used only for the construction or major reconstruction of highways, not to cover the maintenance costs of the use of existing roads, nor to compensate for the congestion, noise, air pollution, and similar social costs associated with the use of existing roads.

A further major limitation of the gasoline tax as a road pricing device is that it bears little, if any, relation to the cost of using a particular road at a particular time. The amount of gasoline tax paid is essentially the same whether the driving is done on an uncongested rural highway or in the middle of the city at rush hour. Efficient pricing of our road system would require that the cost of operating a motor vehicle be higher under conditions which impose a higher social cost. By providing free use of urban highways at congested times of day, while requiring users of public transportation to pay their own way (or a large part of it), we encourage the use of the private automobile relative to the use of public transportation. Society at large is in essence subsidizing the rush hour driver.

We found widespread agreement among the witnesses at our recent hearings that several approaches to the differential pricing of road use—including tolls, special licenses for rush-hour driving, parking charges, and perhaps special metering devices—are technically feasible, but they have been largely neglected in the United States. Much more extensive investigation of the practical possibilities for road pricing has been undertaken in Great Britain, and the subcommittee was fortunate in having some of the results of these studies described by Dr. Cristopher Foster, formerly Director General of Planning for the British Ministry of Transport. Dr. Foster explained that urban roadspace should be regarded as a scarce commodity, and then explained:

Where there is scarcity private enterprise—and Government—usually uses the price mechanism to ration the commodity rather than allowing people to form lines and jostle it out. On urban roads we let people form lines. It would be a much more efficient solution if an economic price * * * were set on highways.* * * In my own country there has been great interest in new methods of urban road pricing since the report of the Smeed Committee in 1964.[8]

This may be compared with the description by another witness of his experience in discussing road pricing with officials at different levels of government in this country:

No one had really considered the possibility of using peak-hour tolls as a device to manage the use of the road system.* * * No assessment has been made, or even contemplated, of the costs and benefits of peak-hour tolls under any circumstances.* * * Development of rational parking policies * * * is another unexploited possibility for increasing the efficiency of urban transportation systems at virtually zero cost.* * * Parking policy in most cities is unbelievably bad.[9]

The potential for road pricing devices as a means of reducing urban road congestion and of obtaining an efficient allocation of resources into urban road construction and maintenance should receive much more attention at all levels of government. Federal programs of highway aid should contain incentives for the development of efficient road pricing. Existing Federal restrictions on the use of tolls should be reexamined.

Federal financing formulas should not distort the allocation of State and local Resources

The Interstate Highway System was initially conceived as a national highway system, designed to provide an efficient means of traveling between cities and, therefore, designed to yield significant national benefits. It was thus thought appropriate for the Federal Government to assume 90 percent of the cost of building the Interstate System.

In fact, however, many urban portions of the Interstate have come to be used primarily, not to connect cities, but to move local residents around within a given metropolitan area. Since other federally aided urban highways receive no more than 50 percent Federal aid and since Federal aid for urban mass transit has been almost nonexistent, a substantial incentive was created for local governments to attempt to meet their local transportation needs through the Interstate System. In many instances these local transportation needs could have been met at lower total cost and in a manner more consistent with clear local preferences through improvement of existing roads, development of express bus service or, in larger

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cities, construction of rail rapid transit. However, the disparities in the level of Federal support for different types of transportation have distorted local choices and discouraged selection of the economically most efficient alternatives.

If the purpose of Federal support of urban transportation investment is to assist metropolitan areas in meeting their local needs, then surely alternative ways of meeting these needs should be examined on the basis of comparative cost and compatibility with local preferences.

Under the present method of allocation of interstate highway funds, if a proposed section of the Interstate is not built, the funds for it revert into the highway trust fund. The choice facing State and local governments is thus one of going ahead with a proposed highway section or of losing the Federal money entirely. The alternative of using the Federal funds to meet the transportation need by some other means is not available.

The Department of Transportation has recently identified a number of segments of the Interstate System which will be particularly difficult to complete either because of local opposition to the highway or because the cost seems excessive. It is estimated that the proposed "Chicago Crosstown" route, for example, will cost approximately $1 billion, or $50 million per mile, to construct. Although the number of miles involved in these segments is a very small percentage of the total Interstate System and none of the segments is regarded by the Department of Transportation as essential to an integrated national system, the combined cost of these segments is estimated to be $4 billion. Consideration should certainly be given to deleting segments such as these from the Interstate System. Consideration should also be given to making available to the States and localities involved some portion of the funds they would otherwise have received for these interstate projects for use in meeting their transportation needs by alternative means, provided that such alternatives were approved by the appropriate Federal officials.

Diversity of financing formulas has a tremendous impact on local decisions, but it is not the only provision of Federal transportation law which influences State and local expenditure decisions. Another which we feel should be reexamined is the restriction placed in the Federal law 36 years ago requiring the States, as a condition of Federal aid, to earmark their own revenues from gasoline and motor vehicle taxes to highway construction. Today the States continue to be obligated to devote at least that portion of these taxes which was in effect in 1934 exclusively to highway use. Just as we favor making the Federal revenues which now go into the highway trust fund available for general use, we feel States should also be free to allocate their revenues to the uses they determine to be of highest priority.

States and localities should be encouraged to use their Federal assistance, as well as their own funds, in the most efficient way. The diversity of Federal financing formulas which distorts choices among alternative types of transportation investment should be corrected and a full evaluation of the way in which Federal transportation law restricts or influences State and local decisions should be undertaken. Restrictions on the uses to which States can apply revenue from State gasoline and motor vehicle taxes should be removed.[10]

III. MEASURING THE ENVIRONMENTAL EFFECTS OF TRANSPORTATION INVESTMENT

Section 102(c) of the National Environmental Policy Act of 1969 requires that all agencies of the Federal Government shall:

Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) The environmental impact of the proposed action;

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) Alternatives to the proposed action;

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public. * * *

It is obvious that any major transportation investment will "significantly affect the quality of the human environment." In his testimony before our subcommittee, Russell Train, Chairman of the Council on Environmental Quality, indicated that in his judgment proposals for legislation relative to the two programs in which the subcommittee was especially interested, the Federal-aid highway program and the supersonic transport development program, should be accompanied by the information specified in Policy Act. As yet no such reports have been section 102 of the National Environmental prepared with respect to the SST, and the Department of Transportation, was unable to assure the subcommittee that this information would be submitted before the ending of this session of Congress. The subcommittee is pleased to note, however, that the report required under the act is expected to be issued shortly with respect to the administration's request for extension of the highway trust fund.

As we have stated earlier in this report, environmental effects of transportation systems are an important part of the social costs and benefits which must be taken into account in measuring the public value of an investment. The environmental consequences of the transportation programs with which we are concerned are very great and should be a major element in decisions on whether to proceed with funding. It is essential that full information on environmental effects be made available before expenditure decisions are made.

Section 102 of the National Environmental Policy Act of 1969, which requires full reporting of the environmental consequences of proposed Federal programs having a significant environmental impact, must be complied with. The Federal aid highway program, the supersonic transport development program, and most other transportation investment programs clearly fall within the scope of this act. The Department of Transportation should make the required information available to Congress as promptly as possible. Authorization and appropriation requests for these programs should not be approved until such information has been supplied.

IV. THE SUPERSONIC TRANSPORT DEVELOPMENT PROGRAM

Federal participation in the development of a commercial supersonic transport has aroused a great deal of controversy. Numerous attempts to analyze the public value of this program have failed to produce a clear justification for Federal participation. Arguments have been advanced by responsible public officials that the development of a commercial SST would advance scientific knowledge, strengthen the U.S. balance of payments, contribute to the health of our aerospace industry, provide employment and enhance our national prestige. Other equally responsible public officials have concluded that the SST would more likely hurt than help the balance of payments, would have a negligible impact on employment, would contribute seriously to noise pollution at airports, might potentially have serious effects on weather and climate, would be utilized by only a small fraction of our population, and is unlikely to be a commercial success. For example, the Under Secretary of the Treasury for Monetary Affairs concluded in March 1969 that "the balance of public benefits or losses may well be negative," and the Director of the Office of Science and Technology concluded that "the Government should not be subsidizing a device which has neither commercial attractiveness of public acceptance."

In view of the many pressing demands on the Federal budget and in view of the recommendation of the Joint Economic Committee in its 1970 Annual Report that Congress take prompt action to meet "the need to reduce or eliminate expenditures for space, the supersonic transport, and highways," the Subcommittee on Economy in Government in its May hearings undertook an extensive review of the social costs and benefits of the SST program. We heard testimony from Federal officials responsible for the program and from private experts. Representatives of the Boeing Co., which is building the SST prototype, declined our invitation to appear before the subcommittee, but made extensive written information available to us. The chairman of the subcommittee also requested and received written comments from the members of the ad hoc committee of Government officials which reviewed the SST program at the President's request early in 1969. The subcommittee thus feels that its review of this program has been quite thorough and that efforts have been made to obtain all points of view.

It is our conclusion that few significant public benefits appear likely to result from the supersonic transport development program. On the other hand, very significant social costs are associated with this program. More productive uses of Government resources are clearly available. No further Federal financial support of the supersonic transport development program is justified at this time.

The SST offers few public benefits

Employment Benefits of the SST.—The country is suffering from excessive and rising unemployment at the present time, and much of this unemployment is in the aerospace sector of the economy. We strongly advocate effective action to restore full employment. However, the employment impact of SST prototype development is extremely modest. The Boeing Co. estimates that the *production* phase of the SST program will provide employment for 50,000 persons. This figure has been widely publicized, but it has seldom been pointed out in conjunction with this estimate that the production phase of the program will not, at the earliest, be reached until the mid-1970's. The Under Secretary of Transportation stated during our hearings that "the employment peaks in this program would not occur until the latter half of the 1970's."

The current phase of the program, the *prototype* phase, is estimated by Boeing to employ 20,000 persons. This is only 0.02 percent of the civilian labor force, and only 0.5 percent of total employment in the elec-

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trical and transportation equipment industries. It is only 0.5 percent of the 4 million unemployed in May 1970. The unemployment problems of this country can only be solved by promoting an economy which provides job opportunities on a much more massive scale, and this means productive jobs providing goods and services which society regards as useful and desirable. The SST does not qualify on these grounds.

Our conclusion with respect to the minimal employment impact of the SST is confirmed by the Assistant Secretary of Labor for Manpower, who wrote to the chairman of the subcommittee on April 30, 1970, that "although the overall employment situation in the country has certainly shifted since last year, we would still conclude that the net employment increase from the SST would be negligible."

Balance of Payments.—The difficulty of estimating the balance-of-payments impact of the SST is evidenced by the widely different estimates made by competent and responsible Government officials. In testifying before us in May, the Under Secretary of Transportation estimated that SST sales would have a total favorable impact on the U.S. trade balance through 1990 of as much as $16 billion. This estimate is based on assumed sales of at least 500 U.S. SST's and on the further assumption that in the absence of a U.S. SST, the U.S. airlines will import some 300 British-French Concordes. For reasons we discuss below, both of these sales assumptions are very hard to accept. Furthermore, this balance-of-payments estimate ignores the potential impact of the SST in generating increased foreign travel by U.S. citizens. A more complete estimate of the balance-of-payments impact would consider the foreign travel impact as well as the direct impact of aircraft sales.

Using this broader method of estimation, both the Treasury and the State Department have concluded that the SST is at least as likely to hurt as to help the U.S. balance of payments. In a letter to the chairman of this subcommittee on May 1, 1970, the Under Secretary of the Treasury for Monetary Affairs confirmed his earlier judgment that "the potentially adverse impact on our travel account from development of a U.S. SST could equal or outweigh the positive impact on the aircraft sales account." The Department of State also confirmed, in a letter to the chairman of the subcommittee on May 7, 1970, that they continue to share this view that the balance-of-payments impact of the SST could well be adverse.

Competitive Threat Posed by the Concorde.—Many of the arguments advanced in support of the SST, especially those relating to the balance of payments and the preeminence of the U.S. aerospace industry, are based on the assumption that if a commercial U.S. SST is not developed, a large and lucrative market will be lost to the British-French Concorde. Consequently, the subcommittee endeavored to obtain as much information as possible concerning the Concorde. We found no convincing evidence that a commercially viable Concorde will be developed and sold on the world market in quantities sufficient to damage either our balance of payments or the health of our areospace industry.

Although the Concorde prototype is now undergoing test flights, serious technical problems remain. It has not yet been demonstrated that the Concorde can carry passengers across the Atlantic without refueling. The weight of the plane has increased substantially over original estimates, meaning that it must carry more fuel in order to give it trans-Atlantic range. It is quite possible that there will be no room left in the plane for any significant "payload" (passenger and freight-carrying capacity). In such an event, substantial redesign of the plane would be required. It is not at all certain that the British and French governments would continue with Concorde development in the face of another major cost increase.

Even if a commercial Concorde is developed and put on the market, purchase is not likely to be a commercially attractive proposition for the airlines. The British and French airlines, which are government-owned, can and probably will be required to buy the Concorde, and can be subsidized for operation of an uneconomic plane. In this event, other major airlines might feel obliged to purchase a few Concordes for competitive purposes even though they would be operated at a loss. However, the likely sales of the Concorde to U.S. airlines are far below the 300 assumption on which some estimates of the impact on the U.S. balance of payments have been based. World airlines currently have options for 74 Concordes, but these options represent a minimal financial investment and imply no obligation to actually buy these planes.

The Concorde does not pose a competitive threat of sufficient magnitude to justify continued Federal Government support of the U.S. SST.

Scientific Advance.—The advance in scientific knowledge, the so-called "technological fallout," is undoubtedly useful, but this knowledge could be obtained in other ways, at lower cost. The Government officials who reviewed this question at the President's request last year concluded that "the value of this benefit appears to be limited. * * * In the SST program, fallout or technological advance should be considered as a bonus or additional benefit from a program which must depend upon other reasons for its continuation." This panel, which included a representative of the Department of Defense, further concluded that "The SST program cannot be considered as providing unique technological inputs to military programs." This conclusion was confirmed by the statement in a letter from the Department of Defense to the chairman of this subcommittee on May 8, 1970, that "there are other avenues of research which could develop the technology which would accrue from the SST."

National Prestige.—As to the contribution of the SST to the health of the aerospace industry and the prestige of the United States, we find it hard to believe that either will be enhanced by spending billions of dollars to produce an airplane which will have a seriously adverse environmental impact and for which the prospects of commercial success do not appear sufficiently bright to attract private financing. If our aerospace industry is to maintain its preeminent position it must do so by continuing to show the initiative to privately develop and finance products which can find a successful commercial market. When and if commercial supersonic flight becomes an attractive commercial proposition, private financing will be forthcoming. The appropriate Federal role is one of protection of the public interest by requiring that aircraft meet standards of safety and environmental quality. We can best enhance our national prestige and that of our aerospace industry by protecting the public interest.

The social costs of the SST are greater than is generally recognized

Actual Dollar Cost to the Federal Government.—The monetary cost to the Government of SST prototype development is now estimated to be about $1.3 billion, including the recently revealed cost growth of $76 million. Some idea of the increase in cost of this program since the initial decision to proceed with the program can be obtained by comparing this $1.3 billion with the statement made by President Kennedy in 1963 that in no event would the cost to the Government be permitted to exceed $750 million.

Numerous technical problems remain to be resolved during the prototype phase—the basic structural material has recently been changed from titanium "Stresskin" to aluminum brazed titanium honeycomb; a satisfactory fuel sealant has not yet been developed; and the engines still require substantial modifications to reduce takeoff noise. With serious technical difficulties still to be overcome, experience with the development of other U.S. aircraft, both military and commercial, and British-French experience with development of the Concorde all suggest that further substantial cost increases during the prototype phase must be expected. Cost estimates on the Concorde have now approximately quadrupled since the original estimate in 1962. Dr. Richard Garwin, who recently headed a group of technical experts who reviewed the SST program for the Office of Science and Technology, expressed the opinion during our hearings that cost increase of 30 to 40 percent over present estimates could be expected during the prototype phase of the U.S. SST. Such an increase would bring the cost through the prototype phase to $1.7 or $1.8 billion.

Between $600 and $700 million has been spent on the SST through the end of fiscal 1970. This is substantially less than one-half of what we regard as a realistic estimate of the costs through the prototype phase. Two hundred and ninety million dollars has been requested for fiscal year 1971. If the program is terminated now, the cost to the Government, while large, would be only a fraction of the eventual total costs of prototype development.

Even more disturbing than the probable cost increase during the *prototype* phase is the likely need for Government support for the actual *production* of the aircraft. Financing requirements for the production phase were estimated by the Under Secretary of Transportation to be about twice those for the 747 jet, or about $1 billion. Although officials responsible for the program have repeatedly expressed a belief that the production phase will be privately financed, they have been unable to produce evidence in support of this belief and unwilling to give a commitment that Federal support for SST production would not be sought. Indeed, the Under Secretary of Transportation expressed to us his intention to recommend Federal support of SST production, should that prove necessary, when he stated, "I am on record * * * with the statement that while I was of the opinion that private financing would be available, if it were not at that time, and if we felt that we had a successful SST program * * * and it required some Government-guaranteed loans, then I think that we would so recommend."

Other witnesses expressed the belief that the total cost of SST development and production would be on the order of $5 to $7 billion. They expressed great skepticism about the availability of private financing, in the absence of Government guarantees. They felt that the Government's share of the cost of the SST program might well reach $3 to $4 billion. This skepticism concerning private financing is due to the very shaky prospects of the SST for commercial success and to the readily available opportunities for private capital to find alternative uses which appear both safer and more profitable.

Our witnesses felt that the estimates being used by the advocates of the program that 500 or more SST's can be sold were entirely unrealistic. The airlines have heavy financial commitments over the next several years for the purchase of 747's (jumbo jets). Operating costs for the 747 will be far below those for the SST. The number of travelers willing to pay the premium necessary to cover the higher cost of operation of the SST will be very small. In a tight financial situation and with more than adequate capacity already available, the airlines are unlikely to purchase many SST's. For those SST's which are put

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into commercial operation, fares are likely to be set below full cost of operation. This loss will probably be covered by keeping fares higher than otherwise necessary on subsonic flights. Thus, all air travelers will help subsidize the SST. Asked about the views of airline executives regarding the SST, Gen. Elwood Quesada, who is a director of American Airlines, told us, "There are a lot of people that say that the airlines wish the [SST] airplane would go away. And I am one of them."

Adding to our skepticism about the commercial success of the SST and its ability to attract private financing is the apparent inability of the Boeing Co. to come up with a financial plan as required under its contract with the Government. The contract as amended in July 1969 required Boeing to submit by December 31, 1969, a plan for financing of the production phase, but the subcommittee was informed that this requirement had been waived by mutual agreement until June 30, 1972. Thus the Congress is being asked to appropriate $290 million this year for a program for which no assurance can be given that there is any upper limit on the eventual total cost to the Government.

The SST has sometimes been defended as an appropriate use of government money on the grounds that the Government will recover its investment. Even if it were correct that the Government investment will be fully recovered, this argument obviously does not justify Government participation in a program. On the basis of this argument, the Government should feel free to invest in any commercial enterprise, just so long as the prospects for recovery of the investment were good. However, we have concluded that, in any case, the prospects of the Government fully recovering its investment are remote. The contract is designed to produce recovery of the Government dollars invested upon sale of the 300th SST. Subsequent royalties cease when the Government has earned 6 percent on its investment. Thus, the maximum potential return to the Government under its contract with Boeing is recovery of its investment plus 6 percent.[11] Six percent is obviously not a full rate of return to capital in today's market. The average cost of Treasury borrowing has been consistently above 6 percent since early 1969.

Should sales total less than 300 planes there is no assurance that the Government would get any money back at all. The contract already allows deferment of royalties, by mutual agreement, until after 100 airframes have been sold. One can easily imagine further royalty deferment if poor sales are causing losses to the private investors. Another weakness of the contract is that it defines "airframe" as one designed to fly at speeds between Mach 2.2 and Mach 3.1. Should Boeing redesign the aircraft to fly at Mach 2.1, its financial obligation to the Government would aparently be terminated.

Our private witnesses did not feel the prospects for selling 300 SST's were very bright. When we asked General Quesada how much the Government might lose if, for example, only 279 aircraft were sold, he replied, "I think the Government in all probability would lose all of its investment."

No satisfactory evidence has been presented that the production phase of the SST program can be financed entirely from private sources. If the SST program is continued, the total cost to the Government is likely to reach $3 billion or more. There is little prospect that the Government will earn a reasonable rate of return on its investment. It is entirely possible that the Government will recover none of this investment.

Environmental Costs of the SST: Sonic Boom.—There are at least three major types of environmental cost associated with the SST. These are sonic boom, airport noise, and possible damaging effects on the upper atmosphere through the introduction of additional moisture and the destruction of ozone. In an effort to meet the sonic boom problem, the FAA has issued notice of a proposed rule prohibiting supersonic flight over populated areas. We regard strict adherence to such a rule as essential. This rule, however, will greatly reduce the prospects for commercial success of the SST since operation will be restricted to overseas routes. There is thus reason to expect that great pressure will be brought to bear to relax this rule, particularly if the SST does not prove commercially successful when restricted to overseas operation. The language of the proposed rule is such as to raise doubts that the rule would be adhered to in the face of such pressures. The notice of proposed rulemaking reads in part:

Sonic boom producing flights over populated areas within the United States are believed to be economically and technologically "unnecessary" as that word is used in section 611 of the Federal Aviation Act of 1958. Traffic demand studies have concluded that from 500 to 800 supersonic transport airplanes will be in operation by the year 1990. Available studies conclude that these expected traffic demands are sufficient to insure an economically viable supersonic transport, even assuming a sonic boom restriction of the kind proposed in this notice.

A restriction on sonic boom producing flights over populated areas is supported at this time by the inconclusive results of research concerning the effects of sonic boom on the surface environment.

Will this rule be adhered to if the belief that boom-producing flights over populated areas are "economically unnecessary" does not prove to be correct?

Airport Noise.—While the problem of airport noise created by the SST has not received nearly as much public attention as the sonic boom, the dimensions of this problem appear to us to be equally as serious. The high level of sideline noise on takeoff may very well preclude use of many of our existing major airports for SST flights. The costs of airport modification and of construction of new airports designed to accommodate the SST will be enormous. These costs have not been taken into account in estimating the cost of the SST. Furthermore, new airports will have to be constructed at a considerable distance from major centers of population. The time spent traveling to the airport could largely negate the flight time savings achieved by flying at supersonic speeds.

The FAA has recently set a limit on sideline noise at takeoff for new subsonic planes of 108 perceived noise decibels. In terms of the noise measures used by the FAA, the SST will be three to four times louder than this standard, and it will be four to five times louder than the 747. In terms of the noise measure cited by Dr. Garwin in his testimony the SST will produce as much noise as the simultaneous takeoff of 50 jumbo jets satisfying the 108 perceived noise decibel requirement.

In testifying before us, Russell Train, Chairman of the Council on Environment Quality, announced a commitment by the Administration that:

The guidelines with respect to noise certification of the supersonic civilian transport should assure that the noise environment in the vicinity of airports at the time of the introduction of supersonics will not be degraded in any way.

In the course of questioning, Mr. Train revealed that in order to fulfill this commitment to avoid degradation of the noise environment, it will in all probability be necessary to prohibit the SST from landing at most of our existing major airports:

I believe that if we set our standard for the supersonic aircraft in a way which insured that the noise environment in and around our airports will not be degraded, that it will be exceedingly difficult if not impossible for the SST as presently designed and the Concorde as we now know it to operate from U.S. airports.

Eventually the technology necessary to overcome this noise problem will undoubtedly be developed. But such technology is not presently available, nor is an adequate effort to develop such technology apparently being undertaken. Mr. Train told us:

The present level of research in sideline noise, as well as the other environmental problems and uncertainties to which I have referred, is not at a level that we think it should be.

Dr. Gordon McDonald, a member of the Council on Environmental Quality, added:

Using current technology, the chances of obtaining an economically viable airplane and meeting what we propose as the noise criterion are slim. However, there are alternatives ahead that might very well lead to a quieter engine.

We strongly support the commitment made by the Administration that the supersonic transport will not be allowed to degrade the noise environment in the vicinity of airports. This commitment should be incorporated into regulations setting airport noise standards for supersonic planes; standards equally as stringent as those already established for new subsonic planes. The Congress should, however, be aware that unless new technology for reducing engine noise can be developed, adherence to this commitment will make it difficult or impossible for the SST to operate from existing U.S. airports.

Atmospheric Effects.—The third major environmental problem associated with the SST, the possible damage to the upper atmosphere, has also received inadequate public attention. When the Chairman of the Council on Environmental Quality called this area of concern to the attention of our subcommittee, he made it clear that the possible effects on weather and climate are not well understood at this time. It is known that SST operation will introduce substantial additional moisture into the stratosphere. This moisture may destroy some fraction of the ozone in the atmosphere, leading to an increase in the ultraviolet radiation which reaches the earth. This moisture may also increase our cloud cover.

Mr. Train told us:

The increased water content coupled with the natural increase could lead in a few years to a sun shielding cloud cover with serious consequences on climate. * * * The effects should be thoroughly understood before any country proceeds with a massive introduction of supersonic transports.

With respect to the destruction of ozone and the consequent increase in ultraviolet radiation, little is known at this time about what the harmful effects might be. The ultraviolet radiation which presently reaches the earth causes such familiar effects as sunburn. Life could not exist on the surface of the earth if the earth were not shielded by ozone from the full effects of ultraviolet radiation. It is not presently known just what adverse effects small increases in ultraviolet radiation might have on leafy plants and other sensitive life forms. Dr. McDonald of the Council on Environmental Quality stated at our hearings:

This is potentially such a significant problem that we really must understand it before proceeding in any way to alter the water vapor content of this part of the atmosphere.

It seems clear to us that further work on the SST prototype is premature at this time. Research efforts should be concentrated on investigating the effects on weather and climate of introducing additional moisture into the stratosphere; on new technology

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to reduce engine noise; and on efforts to eliminate the sonic boom. When more progress has been made in overcoming these serious environmental effects, the SST may look like a much more attractive commercial proposition. When the SST does become an attractive commercial proposition, we believe that private financing will be available, and there will be no need for direct Government investment in SST development.

Separate views of Representative Clarence J. Brown

If the Joint Economic Committee had been advising Queen Isabella we would still be in Barcelona waiting to prove the world round before daring the Atlantic. The same kind of thinking displayed in this report would have kept the American Government of the last century from developing transcontinental railroads—or President Kennedy 10 years ago from undertaking a program to reach the moon.

While suggesting that there may, indeed, be two sides to the story, the committee does not present in this report the very persuasive arguments or authorities in favor of developing the supersonic transport. The report is a collection of unsubstantiated "concerns" from "experts" who are given equal weight in spite of widely varying degrees of competence. Reasonable men can differ on whether an American SST should be developed at this time. But this report woud have been much more helpful in reaching a sound conclusion on this question and the broader issues of transportation policy had it presented the arguments pro and con, made some differentiation between facts and opinions, and indicated the degree to which the latter are or are not substantiated.

Disregarding its conclusions, this report has blurred facts with suspicions and used tortured (frequently contradictory) logic to come to conclusions about future U.S. transportation policy which will not bear the test of close examination.

There is a natural tendency to over-emphasize our own importance akin to the tendency in human nature which resists change. From time to time in various ways, all of us wish we could slow down technological progress and freeze things as they are.

Opponents of developing an American SST argue as if the United States alone were deciding whether there will be a supersonic aircraft. Neither the Joint Economic Committee nor the U.S. Government will determine whether the supersonic carrier is developed. The British-French Concorde has been flying regularly for over a year and has accumulated hundreds of test hours successfully. Supersonic transport aircraft are currently a reality.

Further, ever increasing numbers of passengers travel by air to more and more places for one primary reason—shorter trip times. Time is money and the airline industry sells time-savings. An industry that is in the business of conserving time will take advantage of any technological change that enables it to perform more productively. Everyone may not like today's emphasis on speed, but like it or not, it is a fact which must be accepted.

If the SST is technically and economically feasible, the airline industry will buy supersonic aircraft (which they have indicated they intend to). The issue then becomes whose aircraft will then buy. The U.S. aircraft industry presently supplies over 85 percent of all commercial planes and parts in use throughout the free world. If the United States does not maintain our technological momentum and our leadership in commercial aviation, our position will disintegrate, and such a disintegration would mean a significant change in our balance of payments (an estimated loss of $22 billion through 1990) and an equally enormous loss in domestic employment which may be even more important.

Some opponents to the SST say that the development of a supersonic aircraft is fine, but that it should be done entirely with private financing and that Government assistance weakens our successful free-enterprise tradition.

This argument is unsound and should not be the basis for failure to support the SST. Development of the SST is estimated to cost $1.5 billion. No private financial arrangement in the present economic circumstance can produce that kind of financing, particularly since the SST program will have stretched over 18 years from the time the Congress started appropiating funds to the time of the first delivery to airlines. No industry could afford an investment of this magnitude for such a long period before getting a return on its money. The $1.5 billion figure approaches the entire net worth of our major commercial transport producers. Thus it should be obvious that the SST business is in fact competition between countries.

While I sympathize with the support of free enterprise given by the SST opponents, their argument overlooks the sizable participation of the Federal Government in the historic development of our railroad system in the 19th century, construction of the Federal Highway System, support of navigable waterways, and the development of atomic energy in the 20th century.

Rather than being an abandonment of the free enterprise system, Government participation in a development the size of supersonic transport is an enormous assist to the continued growth and prosperity of one of our largest private industries which has been of great benefit to our Nation and the world.

The report attempts to make its points against the SST by arguing first that the SST will be economically and technically infeasible. Then it turns around and argues that the SST will be so successful that its development by the United States will worsen our balance-of-payments situation by encouraging Americans to travel abroad and spend U.S. dollars there. Can both things really be true?

Ignoring for the moment which of these contradictory assumptions about the feasibility of the SST is true, one must question the logic that says SST planes will be taking Americans abroad so American companies should not build them. If Americans will be adversely affecting our balance of payments by traveling in foreign countries, that presumed economic disadvantage might be ameliorated at least by retaining the present leadership the American aviation industry holds in making and selling a U.S. product in world markets. If American technical and economic leadership could produce a commercially successful SST before foreign competitors market their plane (and parts and collateral services and activities), it might even benefit U.S. airlines by enhancing the success of their service to both American and foreign travelers in the United States and abroad and further offset any adverse balance of payments impact from added foreign travel by Americans.

And that gives no consideration to the positive impact on trade balances which would accrue to the world's leading manufacturer and marketer of products from being able to open up new parts of the world to swift trade. It will not be interstate travel in the United States that benefits from the development and use of the SST. Nor will the greatest benefit be in cutting the flight time to Europe from 8 hours to half a working day. The real benefit will come (as it did a few years ago in European travel) when almost anyplace in the world is available on an overnight flight. The movement of civilization and cultural development throughout world history has depended upon such shortening of trade routes.

No one can say with certainty whether the supersonic transport will be a commercial success. If such answers could be prophesied with accuracy, there would be no need for this report. Without such assurance, however, how does the evidence argue? The French and the British apparently feel it lies on the side of developing an SST in the hope of seizing a bigger chunk of aircraft markets in the world. And orders (which must necessarily be optional until a working version flies) have clearly demonstrated the airline industry's confidence in the commercial feasibility of the SST if actual costs of the plane come within estimated limits. In spite of the one distinguished spokesman from the industry who opposes the SST, the general business judgment of the aircraft and airline industry would seem superior to that evidenced in the majority report. The entire history of the aerospace industry, from the Wright brothers through the 747, is full of scenarios similar to the one in which we find ourselves. Doomsayers had similar negative views of the 707. History records the same problem for Robert Fulton and his steamboat, but the reaction to the concept of the wheel has been lost in the past.

The entire history of the airlines is based on the productivity of the aircraft available. To the airlines, productivity is the number of available seat-miles-per-hour that an airplane will produce. The SST will be a significant improvement, being nearly twice as productive as the 747. Without the periodic improvements in productivity and the continuing research and development in American aviation technology, we would still be flying DC–3's, fare levels would unquestionably be higher and the problems of airport and airway congestion would make air travel as we know it today impossible.

Suffice it to say, the committee makes no case that the SST will not fly and do so to economic advantage. The market is there to get to Europe faster and vast new markets will be opened further away even as recent aircraft developments took European travel from ships. Today 43 percent of the American public has flown and the curve is sharply upward. That percentage will hit 60 percent by 1985, according to present estimates.

The report properly indicates difference of opinion about the cost to develop a supersonic plane to serve a growing portion of this growing market. It is axiomatic, because of recent rates of inflation, that SST development is costing more now than it was originally predicted to cost. So does everything else. This trend makes for legitimate differences of opinion on what final costs may be. But two facts stand out clearly. To stop development now means that resumption of development at some future date will be much more costly than to finish the job now. And to suspend development now—even temporarily—will result in a loss of some significant portion of the $700 million the Federal Government has already invested since President Kennedy first recommended the program be undertaken.

Based on optimistic estimates of prospective sales of an American SST, the Federal investment would be fully returned with a modest rate of interest before we take into account any social and technological benefits which might derive from having an American version of the plane. And, of course, this does not include the debatable economic benefits to our balance of payments. At this rate, the SST becomes a better investment than the transcontinental railroads, the one-time canal system and many public works projects. Even at the committee's most pessimistic market estimates, it seems possible that technological and other benefits might offset some of the lack of direct cash return to Federal coffers. But what benefits will accrue from abandonment of the $700 million invested thus far? The committee suggests none.

With no thought of downgrading economic

questions involved with the decision on whether or not the Federal Government should invest funds in the SST development, it is difficult to avoid the feeling that the real core of the committee antagonism to the project involves environmental concerns—an area in which there is legitimate widespread interest, but in which this committee is not necessarily expert. Given the political climate of any question relating to the environment, one doesn't have to be an expert to raise a bogeyman that would appear to be sufficient to create Government action—or inaction, as in this case. Obviously we must be cautious about any program which would damage our environment, particularly if such injury might be permanent. But if all Federal or private programs are to proceed only on a "guilty until proven innocent" basis, progress will indeed come slowly in a wide variety of areas. Under such a case, any question raised can be determining.

Claims of a new ice age, fundamental alterations in weather patterns or deterioration of marine life if SST's take to the air fall more in the area of conjecture not unlike the arguments against the use of aluminum pans in cooking. While they have not been disproven, they have certainly not been proven to any impressive extent. If all technological change must await proof of its safety, then technological change will be slow indeed. In the past, technological change has been successfully undertaken with a view that it would benefit mankind and any harmful effects could be corrected—by technology. This approach brought man out of the cave. Some confidence might come from that. But the fact that Government, which presumably speaks for all of us, is involved in the development should give the committee some further confidence that nothing would be finally approved that would be detrimental. (One is inclined to ask how the United States would prevent use of the Concorde outside American airspace should it be proven detrimental. Perhaps we ought to undertake the development to assure the world a safe SST.)

The President has already announced that the Government will not permit supersonic flights over land, if there are resulting sonic booms. At this time there is no evidence that sonic booms over the ocean or ice cap will injure anything. The military has been conducting such flights for many years with no apparent damage.

Much has also been made of the airport noise factor. At the present time the industry and the Government are in the midst of a concerted research effort to reduce the airport noise of the SST. Competent testimony indicated SST noise would be only slightly higher than the 707 at the present state of development. The problem of airport sideline noise is but one of many which experts argued would succumb to our superior technological ability. In the related, and more important area of community noise, the SST will be quieter than subsonic jets because of its faster climb capability and quieter operation during approach to landing.

While it is difficult to disagree with the rest of the committee's report, since it contains many beautiful thoughts and is basically harmless, I do not think that the report offers much in the way of sensible, practical, specific recommendations for proceeding. No one can reasonably argue that someone ought not to examine the efficiency of our transportation programs, but I hope that in the future it is done less superficially.

Governing is hard. The decisions are not easy. I question that this report helps anyone much. I favor, as I assume everyone does, considering all of the factors in locating highways. I strongly supoprt a more unified approach to transportation policy, and hope the committee continues to hold hearings in this area. But it is one thing to observe that we ought to consider "social costs" and another to quantify them.

Conversely, the report insists that we quantify social costs for highways, particularly urban ones, but does not mention that the social costs of public transportation, such as inconvenience, lost time, and so forth, be considered. The social costs—and perhaps more important, the practicality—of all proposals ought to be considered.

I worry about the inconsistency of the committees report. It finds fault with the rural highway user having to pay a gasoline tax dedicated to the building of an Interstate Highway System he will not use (and which the committee feels has social disadvantages not present in a rural lane); but then it later suggests that interstate highway users (and presumably anyone else paying a gasoline tax) ought to happily pay the bill for the construction of urban mass transit systems which they might never use.

I agree with the committee, and hope that the proposal is thoughtfully reviewed that our current highway trust fund undoubtedly has distorted some decisions because of the financing available, but I am confused as to whether the committee favors financing all transportation out of general revenues, which seems to be what is advocated on page 5 and pages 7–8, or a specific user charge, which seems to be advocated in the remarks about road pricing on page 10.

I strongly support, as I trust the committee does, an approach to our transportation which considers all modes, their interrelationships, and a careful consideration of all costs and benefits. I hope that we move toward viewing our actions involving one mode as unquestionably influencing another mode. Indeed, I have continuously advocated that this policy be applied to transportation regulation also.

However, I cannot help but feel that the report sheds little light on the subject; it is long on superficial, nice-sounding, ideas and short on practical analysis and applications of the views expressed. The report sounds good, but adds little in the way of hard facts or logic by which to measure transportation policy. It is a vehicle for flaying the supersonic transport program, but not a very convincing one because of its lack of logical conclusions drawn from any hard facts.

FOOTNOTES

[1] "Economic Analysis of Public Investment Decisions: Interest Rate Policy, and Discounting Analysis." Hearings before Subcommittee on Economy in Government, pp. 171–172.

[2] James Nelson, "Economic Analysis and the Efficiency of Government, Pt. 2." Hearings before the Subcommittee on Economy in Government, p. 488.

[3] 1970 National Highway Needs Report, p. 11.

[4] Christopher Foster, testimony before the Subcommittee on Economy in Government, May 6, 1970.

[5] Representative Patman states: "I approve the report with the exception of the recommendation to abolish the highway trust fund. In my opinion, it would be more practical to expand the existing trust fund to cover the extremely urgent need of mass transit. I believe this would be a more effective way of meeting immediate mass transit needs and also serve the purpose of reordering priorities in the field of transportation."

[6] Senator Percy agrees there is a great need for better budgetary control over transportation spending, but feels that the best way to meet the transportation needs of this Nation—especially for urban transit—would be through the use of a general transportation trust fund.

[7] Representative Conable believes that since the Federal highway trust fund was created to finance the construction of the interstate highway system, it would be premature to advocate abolishment of the fund before the system, as presently envisaged, is complete. Therefore, he does not endorse this recommendation at the present time.

[8] Christopher Foster, testimony before the Subcommittee on Economy in Government, May 6, 1970. The title of "Smeed Committee Report" referred to is: "Road Pricing: The Economic and Technical Possibilities," London, HMSO, 1964.

[9] John Kain, testimony before the Subcommittee on Economy in Government May 6, 1970.

[10] Senator Percy believes a general transportation trust fund would allow for such flexibility and permit State and local governmental units the freedom to allocate funds among different modes of transportation in the most efficient manner to meet the particular needs of each State and locality.

[11] In a Summary of Current Economic Studies of the U.S. Supersonic Transport prepared by the Federal Aviation Administration in September 1969, it was estimated that the Government's rate of return assuming the sale of 500 planes would be only 4.3 percent, while the after tax rate of return for Boeing would be 15 percent and for General Electric, the engine manufacturer, 11.2 percent.

THE FAMILY ASSISTANCE PLAN

Mr. WILLIAMS of Delaware. Mr. President, last Friday the President, recognizing that there are serious flaws in the administration's new welfare plan—family assistance plan—as passed by the House, suggested as a compromise that the effective date of the bill be deferred 6 months or until January 1972, and in the meantime run a $50 million pilot project to determine how the bill would work.

Postponing the effective date of the administration's family assistance plan by 6 months and then running a pilot project during the interim does not alter the situation, nor does it answer the question of whether this is or is not a bad bill.

To enact an entirely new welfare program with an annual cost factor of $4 or $3 billion over the existing law and then delay the effective date until a pilot project can be run to determine the feasibility of the law seems to be putting the cart before the horse.

Furthermore, it is unrealistic to figure that Congress can act on this new welfare plan before the recess for the November elections; and that raises the further question: Should a new $4 to $6 billion welfare program of this far-reaching magnitude, which more than doubles the present welfare rolls, be acted upon a lameduck Congress?

One other point to be considered is that we are already confronted with a deficit of over $20 to $25 billion during this 1971 fiscal year, and can, or should, the taxpayers be asked to bear the burden of the increased taxes that will be required if this new multi-billion-dollar welfare law is enacted?

In my opinion, it would make better sense to authorize the $50 million pilot project and then await the results of the experiment before deciding on what type of law we want to enact.

PROBLEMS WITH AUTO REPAIRS AND AUTO INSURANCE

Mr. HART. Mr. President, as all Senators know—from the old reliable source, the mail—consumers have been having more than a few problems with auto repairs and auto insurance.

The Subcommittee on Antitrust and Monopoly has conducted lengthy hearings on both, developing explanations as to what the problems are and why they exist. In the next few days I shall introduce proposed legislation to cope with some of the problems.

Because Senators do not have the time to examine all such reports in depth, it is always most helpful when members of the press give an assist.

Frances Cerra, of Newsday newspaper of Long Island City, N.Y., has done an excellent job of that in two articles published in the August 24 issue. Miss Cerra has managed to highlight the problem areas and discuss possible solutions in a light, readable style which makes education a painless process.

I ask unanimous consent that the article entitled "The Auto Repair Business: A Call for a New Model" and "And Some Realignment in Car Insurance, Too," be printed in the RECORD.

There being no objection, the article were ordered to be printed in the RECORD, as follows:

THE AUTO REPAIR BUSINESS: A CALL FOR A NEW MODEL

(By Frances Cerra)

The car stalls. You turn the ignition key, the starter gives a healthy whir and the engine kicks over, but as soon as you put the car in drive it faints dead away. Serious symptoms, and you wouldn't want the patient to die unexpectedly in the middle of a busy highway.

Bucking and stalling, you jerk your way to the closest state diagnostic center. There, for about $10, expert mechanics in clean blue striped shirts and ties gently take charge of the patient while you anxiously wait in an adjoining room. A few minutes later a mechanic leads you to a consultation room. His diagnosis: carburetor trouble.

The cure will cost about $25, he reassures you, and definitely is not fatal. Clutching a written explanation of the diagnosis you drive the now gasping patient to your family garage. Charley, the master mechanic, reads the diagnosis and gives you a price, $42. Fine. He admits the patient and promises to complete the repairs in two days.

Two days later you return to Charley who hands you a bill with his signature certifying that the carburetor has been fixed properly. Now driving your healthily humming car, you return to the diagnostic center. For $1 more, the repair is checked. Your car is cured.

Simple, uncomplicated—and fiction. Getting a car fixed today is too often an exasperating, traumatic experience. Car owners have been complaining to state and federal officials for years about their problems and expose has followed expose in detailing dishonest practices and simple incompetence.

In 1969, car owners in this country paid $8.8 billion for repairs and mechanical parts, an average of $138 for each of the 64,000,000 passenger vehicles on the road. (There are 100,000,000 motor vehicles in all.) The total cost of car maintenance, including crash repairs, tires and tubes, came to somewhere between $25 billion and $30 billion. Using the most optimistic statistics at hand, Sen. Philip Hart (D-Mich.) estimates that one third of all repairs are done unsatisfactorily, which could mean that $10 billion was wasted by car owners in 1969.

"The loss to consumers runs into the billions, without giving a dollar amount to the frustration and inconvenience," said Hart in opening hearings on car repairs last October.

Besides loss of money, improperly repaired cars also cause loss of life, how much is not yet known. But the death toll on the road becomes horrifying when put in perspective: 55,200 persons died in car accidents in 1968, a number that exceed the total number of U.S. servicemen killed in Vietnam from 1966 to 1969.

But there is hope. Prodded by public outcry into recognizing the existence of auto repair problems, the auto industry itself is beginning to work on the problem and the government appears ready to force some changes that may improve the situation. Sen. Hart, in fact, is expected to introduce legislation within the next two weeks that will cover a broad spectrum of auto problems. This, together with private efforts, may bring about radical changes in the present systems of car repairs and car insurance coverage within the next five years. Here are some of the major changes that may be in the offing.

The shortage of car mechanics will have disappeared and car mechanics will either be licensed or nationally certified; the cost of car insurance will be based on how susceptible the car is to damage; car diagnostic centers, such as the one in the fictional story, will be common; and cars will be designed to resist damage and to be easily repaired when they are damaged.

Many of the prerequisites for these changes exist now. The idea of a diagnostic center is not new and several, such as the Mobil Car Repair Center in East Meadow, already exist. The center is one of three run by Mobil around the country as an experimental project begun in 1964. Instead of mechanics, the center employs specially trained diagnosticians in clean shirts and ties who place a car in a special bay where they attach to it electrontic equipment.

Like doctors, the diagnosticians' tools are laid out in neat rows: all sizes of wrenches, pressure gauges, battery testers and appropriately, a stethoscope with a metal probe on the end. That is used to pinpoint the source of a rattle or ping.

The car being diagnosed moves into the bay where it is first visually inspected for things like loose wires and belts, and holes in the tailpipe or muffler system. A wheel is pulled off and the brake drum inspected and measured for wear.

Then the car moves on to special rollers in the floor which are connected to a machine called a dynomometer. This tells the diagnostician whether the brakes are pulling and releasing property and about the condition of the ignition system, the fuel pump, carburetor and other running parts.

After the diagnosis is finished, a mechanic informs the car owner of the results and gives him the option to have the repairs performed right at the center or of taking the diagnosis sheet to a garage for repairs. The diagnosis itself cost $9.95. Unlike the fictitious diagnostic center, Mobil will not verify that another mechanic has performed a repair properly.

In the legislation that Sen. Hart will introduce soon, he reportedly will call for implementation of the federal car inspection requirements throughout the country, for stricter inspection standards and for mandatory inspections after crash repairs are performed. Hart's staff and the Department of Transportation have been working with RCA to develop a mobile motor vehicle inspection station which is expected to be unveiled soon. According to knowledgeable sources, the inspectiton station consists of sophisticated diagnostic equipment contained in a big truck which can be set up in 40 minutes. Sen. Hart's staff believes that these mobile units could become state-run diagnostic centers in addition to inspection stations so that the quality of auto repairs could be controlled. Thus the fictitious diagnostic center would be a reality.

However, even with the most sophisticated diagnostic equipment, repairing a car depends on the skill of the mechanic.

For three generations, the Scutaros have been auto mechanics. Bob Scutaro, a slight, dark-haired man, has been a mechanic for 18 years, and now he is the service manager at Mobil. Recently he opened the hood of a 1970 Oldsmobile 442, an expensive, highly powered car with an air foil mounted on the trunk lid to make it look like a sophisticated racing car. "See what they've got on here?" he asked Bob Hamblet, manager of the center, motioning toward a spring-mounted air filter sitting on top of the engine. It was a new type of filter, he said, designed to cut down on the air pollution produced by the big engine of the car.

"I think car repairing is getting more difficult," said Scutaro, who lives in Farmingdale. "Young men figure that being a mechanic is being a grease monkey. It isn't. It's as complicated as being an airplane mechanic and it takes three years of training to be a competent auto mechanic."

This "grease monkey" image, plus what many mechanics consider inadequate pay, has led to an acute shortage of trained auto mechanics. In 1950, there was one mechanic for every 73 cars and trucks. Now there are 130 cars and trucks for each mechanic, about 50 more than each can handle. At the beginning of 1969, it was estimated that mechanics earned an average of about $6,500 a year not enough to keep the good ones from looking for employment in other industries.

Auto mechanics also have the problem of convincing prospective employers that they know how to do the work. "With a secretary you check her typing and shorthand and have a pretty good idea of her ability," said Hamblet, the Mobil manager. "With a mechanic there is no way of testing, and you usually make a decision on whether to keep him after a 30-day trial period on the job so you can see the quality of his work."

A test for auto mechanics is being developed now, however, by the Educational Testing Service in Princeton, N.J., under a contract with the National Automobile Dealers Association and the auto manufacturers. Frank McCarthy, executive vice president of the dealers association, said that the objective of the tests is to make it possible to certify mechanics under standards that are accepted nationwide.

"We are definitely committeed to establishing a certification program," said McCarthy, "and we would like this to be considered as a substitute for licensing."

In the past, critics of auto repair practices have recommended that auto mechanics be licensed like electricians or even hairdressers. Some critics have suggested licensing all mechanics. Others urge the licensing only of master mechanics who would be responsible for all the repairs in their shops and would verify by their signatures that repairs had been done properly.

But recently many critics, including Sen. Hart, have been convinced that (at least temporarily) a voluntary certification program is a more desirable idea. They feel that too strict a licensing test would force many existing mechanics out of their jobs, and worsen the repair situation, while too easy a test would give government sanction to persons who are really not qualified to do all types of auto repairs.

"If you can stimulate the individual by giving him the goal of certification, and if you can identify this individual to the dealer, he can be rewarded financially and with prestige," said McCarthy.

McCarthy hopes that certification will attract more men—or women—to the field

of auto mechanics. Right now there is ample training available for people interested in the field. Department of Labor Manpower Training programs will in some cases even pay a person's salary while they are learning auto mechanics. All of the car manufacturers run training schools, and many new car dealers will cooperate with local high schools in work-school programs to interest teenagers in the field. General Motors will train any member of the armed forces in the basics of auto mechanics, free of charge, if he simply applies before he is completely out of service. The problem, according to McCarthy, is not that there is a lack of training opportunities, but simply too few people interested in the field. Certification may change that situation.

Having enough competent auto mechanics and setting up diagnostic centers would go a long way toward solving their repair problem, but many believe that even this is not enough. Cars are hard to fix, harder than necessary, and have in the past been made in such a way that leads critics to charge that they are deliberately made so that they are easy to damage and expensive to repair. No proud owner of a shiny new car needs to be told what one trip to a shopping center can do to the side door panels or the rear bumper. Did you know, for example, that the fan blade of a 1968 Rambler American is about two inches from the radiator? That means that if the front bumper is hit, the fan blade is pushed into the radiator and damages it. Cost of repair, as much as $70.

That piece of information came from Louis Baffa, president of the Auto Body Association of America, when he testified in December, 1968, at hearings of the Senate subcommittee on antitrust and monopoly. The same situation, he said, existed in a 1966 Pontiac Tempest.

Recent studies have shown, in fact, that if a car is run into a wall at only five mph it will be damaged to the tune of $200 on the average and perhaps as high as $305. What this means in terms of insurance costs is staggering since 75 per cent of all collision claims are for $200 or under.

Sen. Hart's subcommittee heard a number of witnesses testify on the ways in which modern cars are made to "perpetuate the flow of high profits by design vulnerability to damage of normally encountered operating hazards," in the words of Norman Bennett, a member of the Society of Automotive Engineers. On the question of bumpers, Bennett has plenty to say.

"Today, and for many recent years," Bennett told the subcommittee, "the expensive and highly decorative bumpers are mounted so that they easily deform and readily result in $150 or more damage from a minor blow that could have been easily avoided, by intelligent and considerate design . . . This type of design is not only unnecessary but inexcusable except for one reason—it results in expensive repairs. The extremes that the manufacturers will go to place easily damaged components such as lights and body projections in vulnerable positions is ludicrous."

The manufacturers deny this. John Bates is the director of the service section of General Motors in Detroit and responsible for their corporate effort in repairability and mechanic training. "That's a completely false accusation," said Bates in reply to the charge that the cars are deliberately made to be damaged easily. "We would be our own worst enemies if we constructed cars so that repairs would be inordinately expensive. Our job is to give the purchaser of a product the optimum in transportation and durability." Asked why bumpers have become more flimsy over the years, he said that the current design is a "compromise between absorption of impact and rigidity." He said, "We've been working for years on an absorbing bumper, but we haven't been able to come up with anything and neither has anyone else."

Sen. Hart is apparently aware of the morass that this debate over deliberately vulnerable design could be and so has devised a way around it that would save the consumer a great deal of money. His legislation will reportedly set up a car rating system administered by the Department of Transportation.

Each model car will be crash-tested to determine how vulnerable it is to damaging itself and its occupants. The rating will determine, in part, the cost of auto insurance. Hart hopes that by providing consmers with a visible, immediate incentive, through lower insurance premiums, they will pick up the safer and more economical car. The Detroit automakers will then be forced hopefully by their desire for profits, to make sturdy, safe cars.

Owning a car today is an expensive proposition, a $100 billion proposition, in fact, for Americans each year. Through these measures—licensing or certification of mechanics, damage rating of cars, diagnostic equipment and better car design—Hart hopes to save the American public an estimated $8 billion to $10 billion a year.

AND SOME REALIGNMENT IN CAR INSURANCE, TOO

(By Frances Cerra)

Nobody wants to be in a car accident. But some people, wise in the ways of insurance companies, have a plan of action ready so that they can collect "a little gravy" in the event of a minor collision.

"If anybody ever hits me in the rear, I'm going to immediately open the door, slide out on to the ground and lie there until an ambulance comes," said one Wyandanch resident. Others plan to clutch at their necks, utter the magic word "whiplash" and institute a suit against the other driver. Of 250 people who said at the time of their accident that they had been just shaken up, 96 per cent ended up suing the other driver, according to attorney Roger Hunting, author of a book called "Who Sues." Said Hunting, "They told us they weren't looking for big money, just a little extra, a little gravy."

Chances are that such people can recover a lot of gravy. Statistics show, in fact, that one-third of the people involved in minor accidents receive at least one and a half times their economic loss in insurance settlements, and that if the true loss is $500, the odds are that the payment will be $2,250.

What is not so widely known is how people fare when they are involved in serious accidents. Recently completed studies by the Department of Transportation show that if the accident actually costs you $25,000 in medical expenses, loss of time on the job and other costs, you will probably recover only about $7,000. In fact, 71 per cent of the victims of serious accidents get back less than one-quarter of what the accident cost them, and 45 per cent of such people actually have to lower their standard of living as a result of the accident.

What's more, the same insurance system that allows your whiplash, real or imaginary, to finance a trip to Acapulco two years after the accident happens may force the victim of a serious accident to remain crippled for the rest of his life. It takes an average of 15 months and three weeks to settle auto accident claims in New York State, but physical therapy must be started immediately after an accident. Paying for it can't be delayed.

It is statistics such as these, numbers that coldly suggest a staggering amount of human suffering, that have spurred the drive to overhaul the present system of auto insurance. Massachusetts has just passed a halfway reform measure and other states will probably follow soon. The New York State Department of Insurance has labeled the present so-called "fault" system as "part lottery and part bazaar," and Gov. Rockefeller has strongly advocated beginning a "no-fault" system. Change will probably be forthcoming on the federal level too. Sen. Philip Hart (D-Mich.) plans to introduce legislation soon which will reportedly blend the no-fault system with parts of the present system.

The basic trouble with the "fault" system is that it does not protect people from financial disaster while at the same time it is extremely expensive. The immensity of the problem hits home when you realize, to quote Sen. Hart, that auto accidents cost $61 billion from July 1965 to Dec. 1969, three-fourths the cost of the Vietnam war during the same period. In addition to this financial cost, the current system is the major cause of court congestion.

Auto insurance is different from other kinds of insurance which guarantee the policy holder that he will be reimbursed for his losses. Health insurance, for example, pays off when you get sick. Auto liability insurance instead protects you from being sued by someone else in case you are in an accident where you may have been at fault. If your guilt is proven in a court case, the insurance you've been purchasing at such a big expense will reimburse some stranger, the guy in the other car, for his losses.

As for your medical expenses, the work time you lost and any other personal expenses, tough luck. You were to blame so you have to pay your losses out of your own pocket. (If you carry collision insurance, the cost of damage to your car will probably be covered.)

This fault system is a throwback to the days when only the rich owned horses or cars and had to protect themselves from being sued by people they ran over. Today, when everyone drives and especially when crashes are most often caused by a combination of mistakes by both drivers, faulty cars and poor highway design, the entire concept of fault is considered to be outmoded by many.

In practice the system develops further faults. The small claim of $1,000 or less is a nuisance to insurance companies so they generally settle them quickly regardless of the actual loss a person suffers or of who is to blame. On the other hand, in large cases, the tortured, time-consuming and expensive suit procedure is carried on for years, wearing down the patience of the injured and making them settle eventually out of court. In fact, 99 per cent of all auto-accident cases are eventually settled out of court but not before the pre-trial and other judicial proceedings have tied the courts up. In fact, legal authorities agree that the major cause of court congestion is the automobile accident case.

All of this waste and inefficiency shows up in unnecessarily high insurance premiums. Let us start with $1 for auto liability coverage. Immediately the administrative costs of the insurance companies and their agents use up 33 cents. Lawyers and claims investigators use up another 23 cents. That leaves 44 cents of the $1 to compensate accident victims. But 44 cents does not end up paying for the losses of those victims.

First of all, because of a peculiarity of law, eight cents goes for medical or other expenses that have already been paid for by some other form of insurance such as Blue Cross. Another 21.5 cents rewards people for their "pain and suffering." As we have seen, the pain and suffering payments generally go to people involved in small accidents.

Finally, out of this $1, only 14.5 cents goes to people for their actual damages. Put another way, New York State residents pay $7 in insurance premiums to gets $1 back for damages they suffer.

On a national scale, this is even more stag-

gering. Total auto premiums in 1968 totaled $11.7 billion, and even assuming that 20 per cent of that total went to reimburse actual damage, at least $9 billion is wasted.

The minimum liability insurance required by law in New York State costs an average of $125 a year. Many people pay far more. The New York State Insurance Department estimates that auto insurance premiums could be cut in half if a no-fault system replaces the current one.

The principle of the no-fault system is that when an accident occurs each driver's insurance company will reimburse him directly for all his losses. There would be no attempt to determine who is to blame so that suits would be eliminated. That is all there is to the idea.

The American Insurance Association has estimates showing that lawyers as a group get from 10 to 30 per cent of their income from auto accident cases. A no-fault system would end this source of income. It is no surprise to proponents of the no-fault system that the New York State Association of Trial Lawyers vehemently opposes the idea with public statements like these:

The so-called "No-Fault" plan . . . deprive the innocent of their day in court and of an opportunity to have their rights adjudicated by their peers," read one press release.

Aaron Broker of Kings Point, counsel to the Committee on Community Affairs of the association, was quoted as saying, "The movement afoot (for no-fault insurance) is calculated to reduce those injured through no fault of their own to a reliance upon a dole akin to charity."

Major segments of the auto insurance industry are also opposed to the idea, arguing that they are not convinced that there would be substantial cost savings from the system and that, "The New York plan would make an innocent victim of an automobile accident pay for his own injuries and property damage and would bar him from taking legal action against the wrongdoer," in the words of Vestal Lemmon, president of the National Association of Independent Insurers.

In Hunting's book, he points out that long delays in settlement of accident cases benefit the insurance companies. "They have the money in interest-bearing investments all that time, for one thing," he said. "And then they get people to settle for less because they can't put up with the delays."

It is apparent though, that insurance company and lawyer opposition will not be strong enough to prevent at least partial reform of the current system. The new Massachusetts law eliminates the fault idea in all cases under $2,000 but preserves it in larger cases. This will probably reduce premiums and relieve court congestion but will not, of course, correct the problem of adequately reimbursing persons involved in serious accidents.

Reformers in other states and on the federal level are seeking other compromises. In any case, the one crucial factor—public acceptance of the no-fault system—seems assured. The Department of Transportation has found that once the new idea is explained to them, more people prefer to give up their chance at "a little gravy" than to maintain the present system.

—Cerra.

THE WAR IN INDOCHINA

Mr. McGOVERN. Mr. President, Foreign Affairs Quarterly for July 1970, contains three valuable articles on various aspects of the issues raised by the current debate on the McGovern-Hatfield amendment. They are: "Legacy of the Cold War in Indochina," written by Townsend Hoopes; "From the Vietnam War to as Indochina War," written by Jean Lacouture; and "Vietnamization: Can It Work?" written by Robert H. Johnson.

All three gentlemen are distinguished and knowledgeable observers of our Indochina policy. I ask unanimous consent that their helpful articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

LEGACY OF THE COLD WAR IN INDOCHINA

(By Townsend Hoopes)

A question recently posed by a distinguished colleague is central for anyone who earnestly seeks to understand how an entire generation of American political leaders, with the best will in the world, pushed the country onto the slippery slope that led ever downward into the engulfing morass of Indochina. The question is this: "Why did so many intelligent, experienced and humane men in government fail to grasp the immorality of our intervention in Vietnam and the cancerous division it was producing at home, long after this was instinctively evident to their wives and children?"

As a nation we are still only beginning to address this prickly and uncomfortable question. The New Left has of course long since rendered its own verdict: namely, that the entire leadership was venal, and was moreover acting within the compulsions of an imperialist system. For those, however, who still value reason and believe in factual, proportioned discourse as the most reliable road to approximate truth, the question is serious and compelling; ultimately it is inescapable. While we remain at some distance from a complete answer, it seems certain that an important part of the answer lies in what has been called the cold-war syndrome and in its ramified legacy. Every American over 40 (especially those between 40 and 60) shares involuntarily in this legacy, to a greater or lesser degree, because the cold war was the pervasive reality of the years in which that generation came to its political maturity. By cold war I mean, of course, the highly charged and dangerous power struggle that billowed up out of World War II between a monolithic communist structure directed by Stalin and a rather more loose, hastily reassembled coalition of nations led by the United States.

There is a tendency today, especially among younger people, to denigrate the Stalinist threat, to discount the challenge and the perils it presented, and by various efforts at historical revisionism to conclude that the cold war was an unnecessary happening provoked by American imperialists and militarists. The evidence of those who helped to formulate the democratic response, or who merely lived through the period, is of course quite different. The cold war was a real and bitter struggle touched off by Stalin's utterly serious efforts to subvert and capture Western Europe, to penetrate the Mediterranean basin, and to gain a major influence in the strategic Asian anchor, Japan. No doubt, U.S. insistence on free elections in Eastern Europe confirmed the worst suspicions of Soviet leaders that a universalist American capitalism intended to deny Russian paramountcy in the belt of states through which Hitler's terrible invading force had marched, a buffer zone regarded by Stalin as the minimal requirement of Russian security. But it was not merely the case of a Kremlin leadership understandably paranoid in the aftermath of unprecedented human loss and physical devastation inside its homeland; it was also the case of a leadership impelled by the iron logic of a messianic ideology, a fact that made the Soviet Union compulsively expansionist and thus something quite different from the classic nation-state. Through his far-flung operatives Stalin discerned, in the war-bred chaos beyond his borders, new opportunities to extend Soviet power.

Disciplined, activist communist parties all over the world were almost instantly responsive to central direction from the Kremlin; and they were bent upon widespread disruption and seizure, stimulated by the brute fact that much of the civilized world lay physically and economically prostrate in the immediate wake of World War II. To meet and turn back a fundamental challenge to the power balance which we had fought that war to restore, we were thrust by irresistible logic into a series of dramatic salvage operations—to aid the Greeks and Turks, rebuild Europe through the Marshall Plan, establish the North Atlantic Treaty Organization, stand in Berlin, fight in Korea. As the one free nation with the necessary strength and coherence to lead the resistance, we were forced by the steady pressure of postwar crises to exertions of a scale and character that seemed to make our universal involvement a permanent necessity. While, in fact, the restoration of Western Europe and Japan, and the effective blunting of Moscow's ideological-military thrust, required only about eight years, the effort was totally absorbing. Combined with the harsh lesson in power realities taught by World War II, its effect was to shape the thinking of an entire American generation with respect to the way power is organized in the world and with respect to the requirements of U.S. security.

II

The Korean war in particular shaped our national attitudes about the developing situation in Vietnam and thus made probable, as early as 1954, our ultimate military intervention 11 years later. For the attack on South Korea was a Russian decision—a command by Stalin to send a Russian-trained puppet army across an established international boundary line. Washington saw the attack as a naked, centrally directed aggression, a bold attempt to upset the precarious postwar balance, a dagger aimed straight at our vital interest in Japan. This grave view was confirmed by the United Nations, not only in resolutions, but in sending to battle combat forces from 14 member nations. Such a vigorous response, mingling free-world idealism with a practical determination to defend the global power balance, was a singular triumph for the collective security idea. As it redeemed the dismal failures of the League, so also it confirmed the suspicion that the communist menace excluded no means in pursuing its expansionist aims.

Washington had thought it discerned the Russian hand in Southeast Asia even before this event. A month before the attack on Korea, the United States extended military and economic aid to those three petty states to which France had in 1948 granted a nominal independence within the French Union. Announcing the new policy from Paris, May 8, 1950, Secretary Acheson said in part: "The United States, convinced that neither national independence nor democratic evolution exists in any area dominated by Soviet imperialism, considers the situation to be such as to warrant its according economic aid and military equipment to the Associated States of Indochina and to France in order to assist them in restoring stability. . . ." While the policy reflected, in part, a price demanded by France for her cooperation with NATO, it seems fair to assume that the language was of American choosing. As the Korean war deepened, so did our assistance to the French forces in Indochina. A joint statement in September 1951 by high diplomatic and military officials of the two governments expressed "complete agreement that the successful defense of Indochina is of great importance to the defense of all Southeast Asia" and emphasized that

American and French policies in Indochina "are not at variance." The United States promised faster deliveries of military equipment. A similar communique of June 30, 1952, expressed "unanimous satisfaction over the vigorous and successful course of military operations;" it added that the "excellent performance of the Associated States' forces in battle was found to be a source of particular encouragement." Already underwriting one-third of the total cost of the Indochinese war, we proceeded further to expand our military aid to "the French Union."

In 1954, we were just a year beyond a painfully achieved Korean truce, after three years of bloody fighting. The communists had won the civil war in China, a result which brought severe psychological shock to Americans, who had nurtured sentimental notions of the Chinese people and of U.S.-Chinese relations. Mao was consolidating his control over that vast land mass and its population then numbering 600 million people. Chinese communist intervention in the Korean war, brought on by a serious misreading of diplomatic signals on both sides and by the Truman-MacArthur decision to march to the Yalu, had highly charged America's fears of the Yellow Peril; more broadly, it had reinforced our perception of a precarious coalition of free states under assault across the entire globe by a seamless international conspiracy. In the circumstances, it was almost inevitable that the United States would view the impending French departure from Indochina as merely the opening of another avenue for communist expansion in Asia.

The possibility of local, independent communist action lay outside the range of our cold-war vision. As Secretary Dulles said in June 1954: "At the moment, Indochina is the area where international Communism most vigorously seeks expansion. . . . The problem is one of restoring tranquility in an area where disturbances are fomented from Communist China, but where there is no invasion by Communist China." From the penetrating analyses of George Kennan, the leading Russian expert of his time, the somewhat undiscriminating inference was drawn that *every* form of communism flowed without limit into power vacuums and open crevices wherever they presented themselves. And Indochina without the French seemed to fit that interpretation almost precisely, with Ho Chi Minh dominant in North Vietnam and the Chinese land mass controlled by Mao.

America's policy, engineered by President Eisenhower and Secretary Dulles, thus set about building an anti-communist counterforce in the South—first by helping to establish the de facto reality of a new sovereign nation, next by finding and installing a new national leader (Diem), and then by endowing him with abundant economic and military assistance. The United States was not a signatory to the Geneva Agreements (nor to the Final Declaration of the conference which spelled out the agreement to all-Vietnam elections in 1956); as President Eisenhower explained it on July 21, 1954, the agreement "contains features which we do not like." In a separate statement at Geneva, the United States declared that, while it would refrain from the threat or the use of force to upset the terms of the settlement, it would take a grave view of any renewal of communist aggression in the area. It then moved urgently to conclude the SEATO alliance and to bring under its protection Cambodia, Laos and one-half of Vietnam, *i.e.* "the free territory under the jurisditcion of the State of Vietnam."

In July 1955, the new government in Saigon took, with U.S. encouragement, the next logical step; it rejected the North Vietnamese invitation to discuss elections, on grounds that were above suspicion in the West, given the context of total struggle against "International Communism." Saigon argued that the people in the North would be unable to express their will freely, and that falsified votes in the North could outweigh genuine votes in the South. Underlying every specific move was the firmest American determination to prevent any further communist advance.

It is significant that these policies and actions were strongly supported by the American people; there was no dissent from within government, very little from Congress or the press, and nothing significant from scholars or other close observers of foreign affairs. As a nation we had little perception that we might be frustrating a widely supported national independence movement by lending our aid and our prestige to what were at best colonial puppets, who suffered an innate incapacity to win over any sizable segment of the Vietnamese people to their side, and who, as it turned out, could not govern at all without the direct presence and support of a vary large U.S. expeditionary force. What we saw predominantly was another disagreeable but utterly necessary effort to plug the dike against further communist expansion in Asia.

III

It is very difficult to argue today that that judgment did not reflect the historical and political truth for America at the time, for it was based on direct, chilling and bloody encounters with Stalinism at many strategic points on the globe. The trouble and the tragedy have been that the American response to the cold war generated its own momentum and, in doing so, led us progressively to actions beyond the rational requirements of our national security. Looking back, one can see why men of good conscience—even men with a sense of history—were vulnerable to the developing *hubris*, for the major elements of our national response had roots in some of the noblest American traditions. From Woodrow Wilson down through Franklin Roosevelt we were bequeathed the legacy of America's democratizing mission in the world. And whatever retrospective cynicism Americans might have felt at having fought in 1918 "to make the world safe for democracy," it did not make the "Four Freedoms" or the "Atlantic Charter" any less compelling as political aims in 1945. From Woodrow Wilson and Henry Stimson came the strong belief in the need for collective security against aggression, a conviction reinforced by the disastrous failures of the League of Nations in the 1930s which had led us to the holocaust of World War II. From the tense confrontation with Stalinism came a semi-official, increasingly dogmatic anti-communism.

Each of these strands of policy was legitimate and useful, if applied with a sense of proportion. But what began happening after, and as a result of, the Korean war can be seen with the benefit of hindsight as extension pressed to the point of distortion. Stimson's doctrine held that collective action was required to prevent rather clear-cut aggressions by great powers against the *vital* interests of other great powers, in order to maintain or restore a working balance of power among those leading states. But John Foster Dulles, who practiced a devil theory of communism, began to apply the collective security idea to cases where great power involvement was merely speculative or tenuous, or where the U.S. interest, seen in proportion, was only marginal. The Central Treaty Organization (CENTO), viewed by Dulles as a barrier to a Soviet military attack southward into the Middle East, merely generated improvements in the road network and other communications linking Iran, Afghanistan and Pakistan; it also provided Pakistan with arms in order to balance off India.

CENTO did not, however, prevent Soviet penetration into the Middle East; that feat was accomplished bloodlessly by the proven Western strategem of offering military equipment—in this case to Egypt, Syria and Yemen. The South-East Asia Treaty Organization (SEATO), created in response to what was seen as the danger of communist Chinese hordes pouring down through Southeast Asia and on into Malaya, Burma and Indonesia, brought together a strange collection of physically weak or politically disabled partners. Indeed the unlikelihood that they could or would ever act effectively in concert was so apparent that the alliance provided only the thinnest cloak for what was privately understood to be its underlying purpose: namely, the protective exercise of U.S. power. Six months before the treaty was signed, Secretary Dulles had warned of a possible communist Chinese invasion of Southeast Asia. "If such overt military aggression occurred," he said on June 11, 1954, "that would be a deliberate threat to the United States itself. The United States would of course invoke the processes of the United Nations and consult with its allies. But we could not escape ultimate responsibility for decisions closely touching our own security and self-defense."

By these and similar pronouncements the Chinese communist menace was inflated, and the American defense line drawn through the heart of Southeast Asia. Thus were distortions of threat and interest progressively embedded in the unspoken suppositions of policy formulation, accepted by both political parties and sustained by American public opinion. From 1950 onward, we underwrote, for example, a large Nationalist Chinese Army on Taiwan, a policy based partly on the rationale that it was necessary to guard against a large-scale invasion from the communist mainland; more objective analysis showed in 1965 (when Mao's armed forces were better organized and equipped) that his chances of sending a sizable amphibious force across 120 miles of open water in the face of Nationalist aerial surveillance, the Seventh Fleet, and quickly available U.S. combat airpower was approximately zero.

By a similar process of inflation, the proportioned impulse that produced the Marshall Plan led later to the delusion of "nation-building" in Vietnam, and to Lyndon Johnson's expressed hope of bringing the full fruits of the Great Society to the Mekong. Prudent and rational anti-communism, which recognized Moscow and Peking as major adversaries in the international arena, but understood that ideology is transient while national interests endure, degenerated for a time into a sort of religious obsession which saw the threat as a changeless, all-encompassing evil; the result was to becloud clear thought. The pressures thus arising from a combination of real and spurious threats, and from our assumption of vast responsibility in a world seething with change and discontent, moved U.S. policy—and American opinion—toward a Pavlovian tendency to see every local uprising as a mortal test of wills between a communist octopus and the free world coalition. The trouble was, of course, that this view of our various adversaries as a monolith persisted long after the facts on which it was based had begun to shift.

The sea changes in the communist situation that occurred in the late 1950s and the 1960s are now well known; one needs therefore to cite only the major developments as reference points: (1) the Sino-Soviet breach, which split the vaunted unity of communist doctrine and thus progressively undermined the Soviet position as Mother Church; (2) developments within the U.S.S.R. itself—caused by years of effective NATO containment, the aging process, and the effects of affluence—which moved Russia toward the posture of a status quo power and noticeably reduced Soviet revolutionary fervor in relation to the underdeveloped world: (3)

Moscow's progressive loss of appeal to and control over communist parties throughout the world that lie beyond the physical reach of Russian military power; and (4) the growing uneasiness of the Soviet position in Eastern Europe, brought about by broader economic and cultural relations with the West and the radiated effects of de-Stalinization in Russia. The latter process led, of course, over a period of years, not only to signs of public criticism of the official system in Russia, but also to varying kinds of self-assertion in Eastern Europe, where latent nationalism needed only opportunity to be rekindled. The invasion of Czechoslovakia in 1968 seemed to mark the end of officially tolerated post-Stalin liberalism, but it did not end Russian uncertainties in Eastern Europe; moreover, it once again showed the world a siege mentality that could hardly enhance the attraction of communism in other places.

Notwithstanding these developments—which between 1954 and 1964 were of course unevenly paced, partially disguised, and incomplete—every American policy action in Vietnam during that period, under three Presidents and ranging from economic aid to military training to military supply to the sending of advisers, continued to be based on what seemed a self-evident proposition: namely, that the expansion of "International Communism" presented everywhere, and in nearly every form, a direct menace to U.S. security that had to be stopped—in the last resort by whatever means were necessary.

We thus embarked upon large-scale military intervention in 1965 because the President's advisers, and the President who accepted their advice, remained the prisoners of their cold war experience at a time when communist power had in fact ceased to be monolithic and was breaking up into ideological and political fragments. Intellectually aware of this fragmentation, American leaders were neverless unable to acknowledge and apply the implications of that process for either "International Communism" or the U.S. interest in Southeast Asia. Still impelled by the long shock wave produced by the communist victory in China and the French collapse in Vietnam, they saw instability in that area as primarily the consequence of alien subversion; they also saw it as intolerable—and remediable.

The cold-war syndrome prevailing in Washington in 1965 thus represented no break with the Eisenhower and Kennedy periods. None of those responsible perceived the necessity—or the possibility—or redefining our interests or our role in the world in ways that would permit the drawing of more careful distinctions between those commitments and involvements that are in fact vital to our national security, and those that spring more or less from our deeply held view of what the world "ought" to be and of how it "ought" to be organized. A few viewed the prospect of a protracted testing of wills in insurgent-counterinsurgent combat with missionary zeal, accepting as an article of faith the dubious notion that an insurgency blocked in Vietnam would deter an insurgency planned in Jordan or Trinidad. Convinced absolutely of Americas altruism, they were persuaded that only through the application of American-guided "nation-building," American counter-guerilla doctrine, and, if need be, American military forces could backward nations be saved from the scourge of instability and brought to their rightful place in the modern world.

Our efforts on behalf of South Vietnam through 1964 are not, I believe, fairly construed as immoral, if one thus understands the origins of the governing U.S. attitudes and the formidable new strength and dimension they were given by the relentless pressures of the cold war. Though flawed by progressive misconceptions, U.S. policies toward Southeast Asia were well intentioned and pursued in the earnest belief that we were defending freedom. Yet at each of several critical junctures—in 1962 when President Kennedy (at the prompting of General Maxwell Taylor and Walt Rostow) introduced artillery and fighter-bomber aircraft into South Vietnam and raised U.S. advisory sterngths from 700 to 16,000; after the overthrow of Diem in November 1963; in the autumn of 1964 when the collapse of the carbroard regime in Saigon seemed imminent—American leadership failed to grasp the central truth: namely, that the U.S. interest in Southeast Asia is limited, not vital; that while a limited effort to shore up South Vietnam was warranted, a total effort to save a government founded at low tide upon the receding sands of the French colonial empire was both alien to our interest and destructive of our reputation. The sudden discontinuity in the American presidency may well have been the decisive factor after 1963.

In any event, the chances for restraint, for acknowledging mistakes with reasonable grace, and for an intelligent cutting of losses were missed. The nation went over the brink and down the slippery slope. We failed to see that the realization of our ostensibly limited objectives in Vietnam required in fact the total frustration of the other side's aims, and thus might well involve a wholly open-ended commitment. North Vietnam's unexpected tenacity, deriving from the fact that the war was for Hanoi a vital struggle, led us in the event to the application of progressively unlimited means. This loss of proportion led to wanton destruction, to a gross disparity between ends and means, and therein lies the immorality.

It would be, of course, incorrect and unfair to place all of the blame on President Johnson and his advisers, for, as is evident, we are dealing with what has been a national state of mind. It is well to remember that the advisers were widely regarded when they entered government as among the ablest, the best-informed, the most humane and liberal men who could be found for public trust. And that was a true assessment. President Johnson himself reflected a fateful duality, with overtones of personal tragedy. In late 1964, before the decision to insert American combat forces was taken, there is evidence that he clung to very real doubts concerning the wisdom of further U.S. military involvement in Vietnam, and that he resisted the contrary advice of major cabinet officers. But once he was overborne by the felt pressure of events or the collective weight of his advisers' experience, once he was committed, then his visceral preference for victory came into the open. From that point onward, his domineering personality and his strong allergy to dissent within the bosom of his official family made it almost certain that advice to him would continue to be homogeneous.

Three years later—with a half-million Americans waging no better than a military stalemate, with physical and human destruction in Vietnam on a rising scale, with our domestic scene punctuated by protests, draft resistance and the fateful merging of anti-war and racial dissension—it still required a near cataclysmic event to arrest a policy of open-ended escalation. To put the matter more precisely, it required the dramatic, undisguisable shock of the Tet offensive to knock the props out from under the contrived structure of official optimism, to create heavy public pressures for change, and thus to enable a few well-placed and determined men within the government to restore a measure of proportion to our policy in Vietnam.

IV

What are the outlines of the situation today, a little more than two years after the Johnson decisions that put a ceiling on the war? They suggest the tenacity of the legacy. Shopworn, altered by circumstance, lacking the full confidence of old, the cold war syndrome appears nevertheless to be alive and well and living in Washington.

One perceives that President Nixon had the opportunity (like President Eisenhower with respect to Korea in 1953) to take definitive steps toward liquidating the war during his first months in office, without political risks for himself, indeed with political benefit for both his own party and the cause of national unity. In fact, his opportunity was broader. It was no less than the chance to lead the nation firmly away from a decade of self-deception in Indochina, to admit a national mistake and by that cleansing act begin to uncoil the contradictions and restore the national balance. He could have set himself the task of demonstrating that, after five years of major fighting, we had done as much as we could do to assist South Vietnam, and that our proper course should now be an orderly but unswerving withdrawal, recognizing two central realities: that the tangled political issues which torture and divide Vietnam, growing as they do out of long colonial repression and the consequent struggle to define a national identity, can be settled only among the Vietnamese themselves; and that contrary to the erroneous assumption on which U.S. military intervention was based, the particular constitutional form and ideological orientation of Vietnamese politics do *not* affect the vital interests of the United States.

It is significant that the new president did not take that road, but meditated upon the problem until the honeymoon period was over and the war had become unmistakably his responsibility and that of the Republican Party. Why did he do this? One is drawn by his actions and utterances to the conclusion that he personifies the ambivalence of his generation, which is now in uneasy transition from the ingrained certitudes of the cold-war syndrome toward somewhat unpalatable new truths. He is somewhere between believing in the essential rightness of this war and understanding that the American interest requires its liquidation. He has evolved a policy that seems aimed at substantially reducing and possibly ending the American role, but so conditionally and gradually as to make the process almost imperceptible. At the same time, he has been unwilling to abandon either the rhetoric that supported our intervention in the first place or the implicit insistence that our proxy must prevail even if we depart. Like his immediate predecessor, he appears to lack the scale of mind and the inner security required to risk even a transient loss of national prestige for the sake of a healthy national adjustment to reality in Southeast Asia.

On November 3, 1969, Mr. Nixon said he was proceeding on two fronts: "a peace settlement through negotiations or, if that fails, ending the war through Vietnamization." Negotiations have thus far failed—chiefly because the U.S. negotiating position does not reflect current realities. With minor embellishments, this position still rests on the President's proposals of May 14, 1969, calling for mutual withdrawal of United States and North Vietnamese forces followed by internationally supervised elections, which would be arranged by a special commission in which the National Liberation Front would participate. But Hanoi has never been prepared to accept arrangements for elections worked out under the auspices of the Thieu government and in which the winner would take all; and the U.S.-South Vietnam military position (now affected by the withdrawal of 110,000 American troops and the announced intention to remove another 150,000) is not sufficient to compel the withdrawal of North Vietnamese forces. The resulting deadlock at Paris ought not to be surprising; it reflects the fact that our present political aims exceed our bargaining power.

To put it bluntly, the one thing we can negotiate at this stage of the war is the manner of our going. Averell Harriman, who speaks with a special authority on the subject of negotiations with the North Vietnamese, appears to believe that if we would declare our intention to leave South Vietnam, we could negotiate not only the return of our prisoners, but also the formation of a neutral government in the South, including but not dominated by the National Liberation Front, and committed to settlement and cordial relations but not merger with North Vietnam. According to Mr. Harriman, an unambiguous American declaration of departure could bring the Russians into a cooperating position, and could thus establish the preconditions for international guarantees of the negotiated arrangements, including, after a reasonable period, international supervision of all-Vietnam elections.

It does not seem impossible that a clear-minded President could lead American opinion to an understanding that firm action along this line need not be cause for a national nervous breakdown; in fact, the military and economic, as well as the psychological, advantages of removing our leg from the quicksand are fully demonstrable. Our power and influence would not evaporate. We would not be rendered incapable of defining and defending our vital and legitimate interests. On the contrary, our ability to reassure our NATO and Japanese treaty partners, and our capacity to exert a firm and steadying influence on the dangers in the Middle East, could only be enhanced by the restoration of our global poise. Our industrial, technical and cultural achievements would continue to astound and attract the world.

President Nixon remains convinced, however, that American prestige in Asia rides on the survival of an anti-communist regime in Saigon. He thus sees an approach such as the Harriman proposal as leading to "humiliation and defeat for the United States." He employs the scare tactic of a "bloodbath" if we should depart under conditions that would leave the survival of the Thieu regime in doubt. In this he misrepresents the known facts concerning Hanoi's treatment of Catholics in the North since 1954, and ignores: (a) the clear reality that an announced U.S. intention to depart would create a strong incentive for compromise settlement among virtually all South Vietnamese, except the inner circles of the Thieu regime; (b) the marked Vietnamese capacity and penchant for accommodation; and (c) the fact that a bloodbath exists in Vietnam *here and now*—in the form of indiscriminate killing and destruction produced by B-52 saturation raids, search-and-destroy operations, "free fire" zones, and atrocities such as those perpetuated at Song My. From such a perspective, the President was not moved to modify his negotiating position at Paris, but to invade Cambodia in what most experienced observers regard as an illusory attempt to force Hanoi to negotiate on his terms.

Thus strapped to a negotiating position that cannot succeed, he is thrown back upon the policy of Vietnamization. This is a policy of a certain virtue, but it is important to understand what it can and cannot accomplish. If linked to a definite deadline for total withdrawal it can be a vehicle for the relatively rapid extrication of American forces; if not so linked, it can become the deliberate or inadvertent centerpiece of an argument designed to show that the permanent retention of sizable American forces in South Vietnam is an inescapable necessity if we are to avoid "humiliation and defeat." In neither case, however, is Vietnamization likely to lead to an ending of the war through political settlement. For by enlarging and strengthening South Vietnamese armed forces, it buttresses Saigon's natural resistance to compromise negotiation; on the other hand, it cannot change the military balance sufficiently to modify Hanoi's refusal to negotiate on Saigon's terms. Unfortunately, President Nixon is trying to leave the impression that Vietnamization is somehow equivalent to negotiations, in the sense that it leads to "a just peace;" in fact, it moves in the opposite direction—toward making the war interminable.

The Nixon policy thus comes down to a continuation of the strategy of attrition, hopefully at lower and therefore politically acceptable levels of violence, and ending hopefully at some distant date in a sort of triumph by survival for the Thieu régime. It is a policy built on the gossamer dream that the Thieu forces can in fact be enabled to stand alone against North Vietnam within the time-frame defined by American domestic pressures for the withdrawal of U.S. forces. It is a policy which seeks to control events in Southeast Asia, while at the same time reducing U.S. forces and thus U.S. bargaining power and influence in the area. It is a policy which declines to come to grips with the hard choices that must be made if U.S. forces are to be protected as their numbers decline and the war continues.

In particular, the insistence on a very gradual, very conditional departure creates vulnerabilities that are potentially grave. The lingering nature of the process makes it vulnerable to unanticipated intervening events—like the Lon Nol coup in Cambodia—which knock it off balance, create new pressures for compensatory military action, and thus further confound an already complicated set of equations. At the same time, the conditional nature of the process—the uncertainty over whether we intend to leave totally or only partially—precludes a negotiated settlement and works against the development of even a tacit understanding with the other side with regard to lowering the level of violence. It thus increases the jeopardy of U.S. forces. It also keeps alive the hopes of those who, erroneously believing the 38th and 17th parallels present analogous issues, want to "do a Korea;" that is, apply indefinitely whatever American muscle is required to transform South Vietnam into an anti-communist bastion.

It is reasonable to suppose that the perception of some or all of these weaknesses in present U.S. policy, and a desire to escape their consequences, was what led President Nixon to his watershed invasion of Cambodia. That decision, taken virtually without consulting any person or institution that shares his Constitutional responsibility, brought to a climax an already growing crisis of confidence in the national leadership. It showed how seriously the President had underestimated the risks of his policy for the continued cohesion of our own society. It showed that the Indochina issue is more than ever a virulent poison in the national bloodstream, reaching now to all segments of the population, but permeating those citizens under 25 years of age who are called upon to do the actual fighting and who by 1975 will comprise nearly half the population. It made blindingly clear the grave peril of extending our national preoccupation with the Indochina war for an indefinite period.

These are somber indicators of the prospect before us; yet the shocked and impassioned general reaction to the Cambodian adventure may in fact point the way to more hopeful developments. For that reaction seems to show that, while the President and a small, influential segment of the foreign-military bureaucracy remain residually hooked on the cold-war syndrome, there is rapidly widening agreement in the Congress, the press, the intelligentsia, and even in the putative silent majority on these propositions: (1) the United States does not and cannot control events in Southeast Asia, either at the present level of effort or with a much larger commitment, and neither can the Russians or the Chinese; (2) the United States has no vital interest at stake in Indochina; we can accept and adjust to whatever outcome is arrived at by the people who live there; (3) the United States must wholly terminate its military role in Indochina within a short time (by the end of 1971 at the very latest) or else accept grave risks of our own national disintegration; and (4) if our elected leaders will cease their appeals to the emotionalism that unavoidably surrounds the concepts of "national commitment" and "national prestige," and will deal in true proportion with the real choices facing us in Southeast Asia, there is no reason why our rich and powerful country cannot extricate itself with reasonable poise and dignity, without a traumatic loss of self-confidence, and without a lapse into mindless isolation.

The highest test of character is to learn from the past, to admit one's mistakes, and to act on that admission. This remains the course of honor and reason and sanity for United States policy in Indochina. Any other course can only compound the present contradictions and lead us to the kind of trauma that could quite literally dissolve the bonds of our political union.

FROM THE VIETNAM WAR TO AN INDOCHINA WAR

(By Jean Lacouture)

During the last week of April 1970 the Vietnam war became the Second Indochina War. On April 24 and 25 representatives of the four movements of the Indochinese Left convened at a certain spot in south China to seal an alliance that had been contracted many years before by three of the movements—the North Vietnamese Lao Dong, the Pathet Lao and the South Vietnamese National Liberation Front (NLF)—and to which Prince Sihanouk, overthrown a month earlier by the Cambodian Right, was now adhering in a conspicuously unconditional manner. The *Indochinese* revolutionary front thus came into being.

Five days later, President Nixon announced the entry into Cambodia of sizable American contingents backed up by South Vietnamese units. This operation, dubbed "Total Victory," was presented in Saigon as an attempt to wind up the war and be done with it. In this manner a strategy was defined which confuses the idea of victory with that of extending the conflict outside Vietnam. In the light of the disclosures made two weeks before by a subcommittee of the Senate Foreign Relations Committee regarding American participation in the fighting in Laos, the conclusion is inescapable that on April 30, 1970, the United States embarked on what is now the Second Indochina War.

Thus Richard Nixon became the first Republican President to increase the responsibilities of the United States on that Asian landmass into which Washington's best strategists have so often insisted that no American army must ever plunge. And the operation was launched under conditions that the worst enemies of the United States might have hoped for. "We must have two or three Vietnams!" Ernesto "Che" Guevara had trumpeted in 1967 in the name of the worldwide revolution. And there they are, from Luang Prabang to Kep: two or three Vietnams, that is to say, the whole of that territory of Indochina which French colonization seems, in retrospect, to have put together to serve as the framework for a revolutionary undertaking—a framework that is more open to Vietnamese energies than the restricted territory of Vietnam alone.

The very word "Indochina" was created by colonization and for colonization; the Danish-born geographer Malte-Brun coined the term in 1852. In 1887, an Indochinese administration was set up, under the authority of

a governor general presiding sometimes in Saigon and sometimes in Hanoi, composed of the following elements—the colony of Cochin China in the South; the protectorates of Annam in the east, which retained a ceremonial sovereign residing in Hué, and of Tonkin, in the north, where an "imperial delegate" resided; and the kingdoms of Cambodia and Laos in the west, whose monarchical systems were left intact by the colonizers. This arrangement was a strange combination of three Vietnamese countries strongly marked by Chinese influence and Confucian historical tradition and the little kingdoms of the Mekong, which belong, rather, with the cultural sphere of India and are wholly dominated by the strictest form of Buddhism.

In concocting this amalgam of nations and civilizations, the French colonizers were, like their British rivals in Nigeria, attempting to set up the most economical kind of operation, one by which some of the colonized peoples are made to exploit the others. And to a large extent they succeeded. In Vietnam they managed to maintain a class of mandarins, which enabled them to develop an artful indirect kind of colonization. In Laos and Cambodia, a class made up of Vietnamese petty officials, small businessmen and artisans served as the motor of French colonization. In this way a relatively economical system of exploitation was established, and the three peoples to be dominated were, in appearance, lined up against one another.

In fact, the French colonizers overshot their objective; in spite of themselves they united, in a strange way, these three different peoples, at very dissimilar levels of development, and in so doing imposed on them a single historical framework which the revolutionaries are now making use of for their own puposes. Of course, the Vietnamese intermediaries did inspire ill feeling and hatred of the kind which recently exploded in Cambodia. But this ill-will does not appear to be great enough to deflect the three peoples from developing together on converging courses in the years to come.

II

This Indochinese concept, intimately bound up with history and with colonial methods, was, indeed, very quickly seized upon by the revolutionaries, who retained the framework imposed by their enemy the better to struggle against him. This was what one of the founders of the Vietminh dubbed one day the strategy of "the glove turned inside out."

On February 3, 1930, in Hong Kong, the Vietnamese Communist Party was founded; Ho Chi Minh (then Nguyen Ai Quoc) immediately became its top leader. But six months later the leader called his comrades together in another conference in the course of which he gave the party a new name, rechristening it the Indochinese Communist Party (ICP). It was after consulting with the leaders of the Third International that the future president of the Democratic Republic of North Vietnam reached this decision, which in his eyes had the merit of giving the revolutionary effort he had just launched a more international character. It is worth noting, moreover, that the program which Nguyen Ai Quoc promulgated at that time included the following aims: (1) to overthrow imperialism, feudalism and the reactionary bourgeoisie in Vietnam, and (2) to achieve the complete independence of Indochina. Thus the first strategist of communism in this region restored a distinction consonant with the inequalities of the three countries in terms of development by calling for a *social* revolution in Vietnam and a *political* one in the peninsula as a whole.

It must be admitted that this Indochinese strategy was for a long time quite artificial, since the ICP remained for many years essentially Vietnamese. And it must be noted that when the Laotians and Cambodians truly embarked on revolutionary action they founded their own organizations—the Pathet Lao for the first and the Pracheachon for the second.

It was on an almost exclusively Vietnamese basis that Ho Chi Minh and his comrades launched the revolution in 1945. In the two neighboring countries the independence movement was sparked by very diverse forces: in Cambodia, they were, at first, two traditionally educated intellectuals, Hiem Chieu and Son Ngoc Minh, and in Laos a curious triumvirate of half-brother princes: the feudalist Petsarath, the liberal Souvanna Phouma and the Marxist Souphanouvong. Very quickly, moreover, the Vietnamese revolutionaries were to set up cells within the Laotian movement, while in Cambodia the local revolutionaries were to conserve a much greater degree of autonomy.

In 1951, six years after the outbreak of the colonial war against France, the three Indochinese movements concluded a Viet-Lao-Khmer alliance for the purpose of preparing to extend the fighting to the whole of the peninsula. Two years later, indeed, General Giap, pinned down by the French expeditionary corps in the key zones of the deltas of the Red River and the Mekong, suddenly decided to widen the theater of operations and entice his enemies onto new battlefields. In April 1953 he drew the French general staff toward Laos, encouraging them little by little to think that that was the terrain on which they could smash him. Between November 1953 and May 1954 came the creation, then the resistance, and finally the collapse of the entrenched camp of Dienbienphu. In broadening the First Indochina War, Giap faced the loss of everything. (This was a lesson which American strategists do not seem to have remembered: I shall have more to say on the subject.)

The Geneva Conference in 1954 was to bring the First Indochina War to an end. The Indochinese front was not, indeed, much in evidence at those councils: since the revolutionary parties had not had sufficient time to coördinate their efforts, Laos and Cambodia were represented there by governments whose only wish was to separate their problems from those of Vietnam and to draw a veil over the existence on their territories of groups that were more or less Marxist. But these groups were to grow bigger in the course of the ensuing years, and at the second Geneva Conference, the one devoted to Laos in the summer of 1962, the Indochinese theme was invoked much more often. The delegate from North Vietnam, Ung Van Khiem, hinted that a neutralization of the Indochinese region would be salutary. He specifically excluded the Democratic Republic of North Vietnam from this, but left the door open for the future.

This idea was taken up again in a much more precise and intesting form in various programs promulgated by the National Liberation Front of South Vietnam, founded in December 1960, which went on record as favoring an alliance of neutral nations comprised of Cambodia, Laos and South Vietnam. It seems astonishing today that observers at the time did not take greater note of the very great originality of this program and the audacity it took for those South Vietnamese underground fighters to place their future within a framework in which, at least for a time, Cambodia and Laos would be closer to them than North Vietnam. Of course, for most of the American experts the NLF did not exist except as an echo of hypocritical orders dictated by Hanoi.

It was at the beginning of 1965, on the initiative of Prince Sihanouk, that Indochina emerged clearly as the major theme of all struggle against the American intervention and for political and economic reconstruction. On February 14, 1965, a "conference of Indochinese peoples" met in Phnom Penh. For Sihanouk this was most importantly an opportunity to have his country's frontiers guaranteed by the North Vietnamese and the NLF, whom he saw as the eventual victors and thus as his future neighbors. For Hanoi and the Front it was a chance to demonstrate the solidarity against imperialism of the revolution and neutralism, of the national masses and the national bourgeoisies, of the Vietnamese and their neighbors.

Geopolitical front, socio-economic alliance: at Phnom Penh were to be found all the factions opposed to American hegemony, from the intellectuals, mostly bourgeois and Catholic, of Tran Van Huu's "Committee for Peace and for the Renovation of South Vietnam" to the guerrilla fighters of the Pahet Lao and the bureaucrats of the Cambodian Sangkum. The major theme of the Phnom Penh meeting was the search for a formula for the neutralization of the whole of Indochina, the first step toward which might be an international conference like that of 1962, broadened to consider the future of the three countries. But the delegate from Hanoi, Hoang Quoc Viet, opposed this idea of Prince Sihanouk's: the bombardments of the North by the U.S. Air Force had just stiffened Hanoi's atitude still further. The Phnom Penh conference made no advance along the road to peace; but it confirmed and made manifest the "Indochinese" theme, and brought to light aspirations held in common by the most diverse delegations. It was, on this level, a success.

The American bombing of North Vietnam also contributed to the "materialization" of Indochina. It did this in three ways. First, the Vietnamese revolution, attacked at the very center of its strength, sought any and all means of hitting back, and all fronts thereafter became acceptable for striking a blow at the enemy. Secondly, this retaliation, with priority targets in South Vietnam, required a set-up in the transport of men and supplies from North to South by way of the Ho Chi Minh Trail, which goes through Laos for several hundred kilometers and through Cambodia for about a hundred. And finally, this aerial strategy gave an impetus to the increase of flights by American aircraft over the most diverse objectives—including, among others, frontiers; from this across a multiplicity of aerial incursions, in 1965 and 1966, which progressively nudged Cambodia into the war.

It was, however, in Laos that the greatest extension of the war outside the frontiers of Vietnam occurred. Since 1964—that is, since the actual dissociation of the neutralist coalition government formed in 1962, a sort of modus vivendi had been established, dividing the kingdom into two zones: in the west, seven provinces, from Luang Prabang to Savannaket, controlled (less and less) by the Vientiane government of Prince Souvanna Phouma, and to the east, from Sam Neua to the Cambodian frontier, five provinces controlled by the Pathet Lao and traversed by the Ho Chi Minh Trail. The double neutralization, both diplomatic and governmental, imposed by the 14 powers participating in the second Geneva Conference had thus given way to an actual partition.

After the halt of the bombings of North Vietnam in November 1968, however, the American bombers stepped up their raids on the Ho Chi Minh Trail linking North and South Vietnam across Laos and part of Cambodia. The frequency and amplitude of these bombings were described in a report of a Senate Foreign Relations subcommittee published in April 1970. Testifying before this subcommittee, Senator Stuart Symington declared that these raids had practically supplanted the raids over North Vietnam that had been halted, and revealed that the U.S. ambassador in Vientiane had the authority to order these bombings and specify

where the bombs were to be dropped, which, according to the Senator from Missouri, made that diplomat virtually a "military proconsul." Directly challenged on this matter, former Ambassador Sullivan declared that since he had been replaced in Vientiane by his colleague Godley these bombing raids had doubled.

So Laos, where almost 40,000 North Vietnamese soldiers are permanently entrenched in a zone which covers almost half the country and against which the U.S. Air Force daily launches from 300 to 400 aerial strikes, has certainly been "in the war" for several years. But operations there took on a new dimension in February 1970, when the Pathet Lao, aided by its Vietnamese allies, overran the Plaine des Jarres, the strategic crossroads of the country, which the tacit partition of Laos had provisionally kept outside its sector. The strategic ascendacy of the communist forces was thus affirmed: it was becoming increasingly obvious that Prince Souphanouvong and his allies held the country in their hands, and that if they did not take either Vientiane or Luang Prabang it was in consequence of a political decision and not a stratgic incapacity. (What is more, in spite of the redoubling of operations by the U.S. Air Force after the capture of the Plaine des Jarres, the Pathet Lao's military and political ascendancy grew still more, so that it was able, at the beginning of May, to take an important center in the south, Attopeu.)

But this strategic ascendancy has not been used (or not yet) by the leaders of the Pathet Lao in pursuit of "total victory." After his forces had seized the Plaine des Jarres, Souphanouvong sent his half-brother and rival Souvanna Phouma an offer to negotiate within the framework of the 1962 agreements, to the end of establishing a coalition government, restoring territorial unity and cutting short all foreign intervention. Obviously, the successes it had achieved in the course of the preceding months would enable the Pathet Lao to increase its demands and its share of power. But the situation of the Vientiane government was so bad that it accepted the principle of negotiation, with Washington's approval.

It will be up to future historians to find out whether or not this trend toward "appeasement" in Laos helped to set in motion the operation of March 1970 in Phnom Penh, and whether or not it was to prevent the initiation of a process which might have led to a generalized negotiation of Indochinese problems as a whole that the "ultras"—South Vietnamese, Cambodians, Thais (and perhaps, but not probably, Americans)—prepared and carried out the Phnom Penh coup d'état.

III

For it is, in any case, the Cambodian episode that has just given the war its true dimensions. We must inquire into the background of it, for the overlapping of strategic combinations and internal intrigue may throw light on the probable future evolution of Indochina as a whole. The affair began in the summer of 1966. Within a few weeks, the Sihanouk régime, which had managed until then to keep the kingdom out of the war and maintain a precarious balance at home between a feudal system adapted to the needs of a nascent capitalism and a progressive intelligentsia (very small in numbers but very active), found itself in a shaky condition at the very moment when the visit in August of General de Gaulle served to shore it up.

One may recall that General de Gaulle's speech at Phnom Penh caused a considerable stir. From then on, Sihanouk became the accomplice in what the entire anti-communist cause in Southeast Asia considered a most troublesome program. In their view, this outpost of Gaullist subversion had to go. In the end it was to be gotten rid of more easily than they imagined because Sihanouk's great ally in Paris was eliminated, and because his successors would turn out to be less attached to the policy General de Gaulle had defined in Phnom Penh.

But Sihanouk found himself on dangerous ground both internationally and at Phnom Penh. He had allowed his relations with Peking to degenerate, thus weakening himself in dealing with the Americans. At home, a few weeks after General de Gaulle's visit, general elections were held—elections which the Prince had wanted to be "freer" than such events had ever been before in Cambodia. The result was to bring a majority of influential landowners into the parliament. Khmer society became represented by those controlled by money and by feudal relationships. Sihanouk had wanted to pay tribute to democracy; instead, he placed the noose of feudalism around his neck.

In the next four years, his personal power was steadily eroded by private interests and those friendly to the Americans. At the same time, neutrality was encouraged and a start was made in establishing state control of the economy. In 1967, one of the leaders of the Left intelligentsia, Chau Seng, who under Sihanouk had held almost all the high offices except the ministries controlling the army and the police, warned the comrade-prince that intrigues were being brought to a boil by the chiefs of the former party of "national renovation," the traditional Right. The names of two of these had already been singled out: Prince Sirik Matak and General Lon Nol. Sihanouk had long been wary of the former and had sent him abroad from one embassy to another. But Lon Nol? He was a soldier, therefore disciplined; and since he was not even a prince, how could he possibly be ambitious enough to think of substituting himself for a descendant of the kings of Angkor?

From 1967 to 1969 Sihanouk, more and more responsive to pressures from the Right, seemed to be letting his relations with Peking become strained, allowing private interests to regain complete control over foreign commerce and banking, and launching a "red hunt" and an anti-Vietnamese campaign.

But why, in the fall of 1969, did Prince Sihanouk go so far as to entrust General Lon Nol with power three months before setting off on a long sojourn in France? Why did he thus entrust his regime to a man he had been warned against, and whose friendly relations with the West had long been known? This can be seen as an overestimation of his own charismatic power, which he believed to be so vast that he could wield it from afar. Or it can be seen as a sign of lassitude. Or it may be considered a Machiavellian trick. Like everyone else, Sihanouk was aware of the growth of the Vietnamese presence in his country. It is possible that in order to avoid having a direct confrontation with his associates, who were beginning to threaten his neutrality, he wanted to stand aside, leaving to General Lon Nol the chore of "cleaning out" Cambodia of the Vietnamese presence, to come back later with his hands clean and his country freer. This is only an hypothesis, but it cannot be completely discounted. One can be too subtle and be mistaken, not so much as to the objective as to the means used. Sihanouk underestimated either the ambition or the convictions of Lon Nol, and the influence of the general's friends in Saigon, if not in Washington.

Sihanouk, who was on the point of slipping into the Western camp, thus found himself abruptly recaptured by the party of revolution. This did not come about wholly by chance. With all his sudden changes of fortune and his diplomatic acrobatics, Norodom Sihanouk had fought almost constantly for over 15 years for peace and neutrality—a neutrality frankly oriented to the East and much more favorable to the interests of Peking and Hanoi than to those of the West. So it was not altogether surprising to find him at the opening of that curious conference of Indochinese revoluntionaries which, as I said, was one of the two most obvious signs of the extension of the conflict, both ideologically and strategically, to the entire peninsula.

IV

The inspiration for the Indochinese conference which convened on April 24, 1970, in a little village in southern China about a hundred kilometers south of Canton came as in 1965 from Norodom Sihanouk. But it was no longer 1965. And it was no longer the colorful, laughing leader, the "star" of Phnom Penh loaded down with unshared powers, the ironic virtuoso of diplomatic tightrope-walking between East and West, who met with the "serious" revolutionary chieftains of Vietnam and Laos. This was now an exile struggling to throw his rivals out of Phnom Penh, a leader flung back by a Rightist coup into the arms of the very same *Khmers Rouges* he had been hunting down three months before. He was now a revolutionary, and as such all the more radical for having been recently converted.

It was in a barracks guarded by soldiers in coarse blue uniforms and surrounded by barbed wire emplacements, a barracks which the Chinese hosts entered only to find out whether the visitors needed anything, that the four groups of Indochinese leaders met for two days. The atmosphere of these sessions, one of the participants informed me, was "brotherly." The chosen language was French, which is spoken perfectly by the lawyer Nguyen Huu Tho, president of the NLF, by the engineer Souphanouvong, the leader of the Pathet Lao, by the militant Marxist Pham Van Dong (the son of a mandarin) and by Prince Sihanouk. It was, another witness said, a meeting of "old Indochina hands," a phrase that is all the more colorful for being the same one used by aging French ex-colonials when they get together in some dusty, sunny café in Marseilles or Nice for nostalgic chats about the good old days.

The greater part of the conference was given over to drafting the final communique, a mixture of threats to the United States and its "lackeys," optimistic proclamations of "final victory," and rather prudent or moderate reminders of the concluding texts of the Geneva conferences, denounced long since by Peking as null and void. An amusing (or significant) incident occurred at the last session. Prince Souphanouvong was in the chair: he called in turn upon his Cambodian and South Vietnamese colleagues to speak. He was preparing to wind up the proceedings himself when Pham Van Dong protested: "You've forgotten me!" "Our friend has anticipated the unification of Vietnam," Prince Sihanouk remarked, making everybody laugh except the delegate from the NLF.

The most interesting themes developed at that conference seem to have been three. First came the affirmation of a very firm *solidarity* among the four movements—but a solidarity sufficiently flexible not to have led the chiefs of "red Indochina" (or those who aspire to being such) into creating a common combat structure. Second, there was the proclamation of the *original nature* of the different struggles and their diversity, from Hanoi to Phnom Penh and from Saigon to Vientiane. Clearly, Pham Van Dong and his delegation wanted to avoid the impression of being imperialists, or even excessively forceful federators. "They were very diplomatic," a witness told me, thinking perhaps that this diplomacy was not necessarily, in the long run, disinterested. And third, there was the reminder of the *"neutralist"* themes explicitly or implicitly formulated in the Geneva texts of 1954 and 1962, and in the political platforms of the NLF and the Pathet Lao (not to mention, of course, the Sihanouk

"line")—theses which could be of use in later negotiations. So in proclaiming themselves certain of military victory the Indochinese leaders were careful to leave out any form of political settlement. Militant Indochina is, then, not just a war cry: it can also be a program for peace.

V

In the meantime, the war is spreading and wreaking havoc. What is most startling in President Nixon's decision of April 30 is its suicidal aspect. I am not speaking here about the consequences of this move for internal American politics, or about the effects it will have on relations between Washington and Moscow. I do not even wish to comment on the obvious contradiction between the two aspects of a strategy which claims that it will rapidly reduce the number of men fighting in the Asian war while it enlarges the field of battle. I prefer to confine myself to a more specifically Indochinese aspect of the question.

There is, first of all, what might be called the gift that has been made to General Giap. In all his steady stream of writings over the last 10 years or so, Hanoi's commander-in-chief has never ceased to assert that every extension of the field of battle serves the revolutionary interests. This is so, he explains, for two reasons: (1) because it is to the advantage of the side with the greater firepower and superior heavy equipment on the ground to concentrate the fighting, while it is obviously in the interest of the side with the greater mobility and lighter armament to break up the fighting and seek to enlarge the combat zone; and (2) because the revolutionaries basically count on the complicity and support of the people, whereas a foreign force has to devote a great deal of time and effort to winning over or controlling by force the people among whom the fighting is going on.

For months, observers had been wondering whether Giap would dare apply his own doctrine and himself extend the front and the battle-zones outside the areas of Vietnam within which he had been more or less held in check since the counterblow that stopped the Tet offensive of February 1968. Now it is his enemies who are spreading the fighting to all of Indochina, under conditions which, in Cambodia, are uniting the masses behind a prestigious political chief who is entering the fray against these enemies. Thus, the operation launched on April 30 seems to me to be contributing to the revolutionary unification of the old colonial Indochina.

Will such a united Indochina become the satellite of China? Mao's speech of May 20 gave many observers the impression that Peking was finally ripping off the mask and proclaiming China's right to control the Indochinese area, much as the Soviet Union held Eastern Europe in thrall after World War II. In my view, this interpretation is wrong. Of course the Chinese leader took the opportunity the Cambodian operation afforded him to attack in the harshest terms the American role of world policeman, and to rejoice in seeing American power entrapped in the Asian rice paddies. But it is noteworthy that his speech did not mention any precise threat or specific action. His appeal was to world revolution, for moral aid and approval, not a call for military escalation. It was a song of triumph rather than a war-like gesture.

The evolution of the Indochina war is the fulfillment of Peking's hopes. The character of the conflict more and more clearly illustrates the validity of the warning of Lin Piao regarding the strategy of countryside versus cities, *i.e.* what is happening in Laos and Cambodia is as it was in Vietnam. The Chinese strategists do not predict complete victory. Revolution in Indochina does not mean Chinese domination. But while a united Indochina, more or less inspired by Hanoi, cannot oppose China, it can limit Chinese expansion. At present, Indochina is fighting under a Chinese banner but its aim is to survive under its own colors.

Vietnamization: Can It Work?

(By Robert H. Johnson)

The uneasy public quiet on Vietnam which the President achieved with his speech last November 3 was shattered by the large-scale U.S. military intervention in eastern Cambodia. Once more U.S. policy in Southeast Asia became the subject of major controversy. In this situation there is some danger that we shall become so caught up in the immediate issues that we neglect more fundamental questions with respect to current American strategy. The new actions are a product of a basic fault in the structure of U.S. policy but do not, by themselves, define that fault.

In his November 3 speech the President offered a strategy based upon the twin approach of negotiations and Vietnamization of the war, accompanied by withdrawals of American forces. He was pessimistic about the outlook for negotiations but told us that Vietnamization would permit the United States to disengage from the war even if negotiations failed. In the period since, the United States has further downgraded negotiations as an essential part of any solution. The only subsequent hint that the government might not consider the Vietnamization strategy sufficient by itself was provided by the President's speech on April 20 announcing future troop withdrawals, in which both the volume and tone of his discussion of negotiations implied a recognition that they were important. He stated explicitly that negotiations at least provide "a better, shorter path to peace." But there was no evidence following that speech of a change in the U.S. position in the Paris negotiations, and the President's action in Cambodia 10 days later clearly gave priority to Vietnamization. This priority was reflected in the renewed emphasis upon the use of military means to end the war and in the justification of the Cambodian intervention on the grounds that it was needed to protect American lives and to "guarantee the continued success of our withdrawal and Vietnamization program."

The basic question therefore remains: Has the President been right in de-coupling Vietnamization and American troop withdrawals from negotiations or are the two strategies essential complements to each other?

The search for an answer to this question must begin with an effort to project into the future the probable results of the Vietnamization and withdrawal policy. Three principal factors will determine the outcome of that policy: North Vietnamese and Vietcong reaction to its implementation; the stability and general viability of the government of South Vietnam; and the closely related question of the ability of the South Vietnamese government and armed forces to cope with the problems of the South at various levels of American withdrawal. As we turn to an examination of these factors, we should realize that now, as in the past, there are almost no agreed "facts" with respect to Vietnam and that any estimate of the future is certain to be disputed.

No one in Vietnam or elsewhere has any clear idea as to likely military reactions by the communists as the United States withdraws from Vietnam. However, we do have the warning last December of General Giap, North Vietnam's Defense Minister, that Vietnamization will be a "tragedy" for U.S. and South Vietnamese forces and that these forces "which have taken severe beatings will get yet harder ones."

It is very clear that the communists wish to see the United States withdraw as quickly as possible. It seems likely that their reactions will depend upon their estimates of U.S. intentions. If the United States were clearly going to remove all American forces quickly, the communists would probably lie low and let us get out with minimum casualties. However, if, as has become increasingly evident, the United States plans to maintain a substantial residual force in South Vietnam for some time, the temptation to undertake some kind of military action against American or South Vietnamese forces will be quite high. The communists would hope to induce pessimism, political change in the South and a more nearly total withdrawal. In April Hanoi did, in fact, call upon communist forces to kill American soldiers at a rate "far beyond the 100-a-week level, which the United States ruling clique has considered bearable." After this, American battle-deaths began to rise significantly above that level.

Political stability in South Vietnam will also be very difficult to estimate in a changing situation. President Thieu is coming increasingly to resemble the late President Diem in critical respects: he is becoming, in the words of a Senate Foreign Relations Committee Staff Report, "increasingly autocratic, secretive and isolated." Like Diem, he seems much more concerned with assuring the absolute security of his present narrow political base than with broadening it. The deep distrust which permeates Vietnamese political relationships is likely to be accentuated by the strains imposed upon the government as it assumes increased responsibility for the war.

The ability of the Thieu régime to cope with the problems of the South will be even more affected by its administrative and military capabilities. While there is considerable optimism in the U.S. government at present about the progress of the rural pacification program, the Senate committee staff report notes that many American officials in the field consider the gains to be fragile and heavily dependent upon the ability of the army of Vietnam (ARVN) to continue to hold the countryside as the Americans leave. Of six factors that are reported as accounting for improved ARVN performance in the past year, four are based upon U.S. matériel, planning, operational and advisory support.[1] Even though most of these elements of support may be continued during an intermediate period after withdrawal of U.S. combat troops, the American ability to influence Vietnamese military planning and action is likely to decline with the elimination of the most important direct U.S. contribution to combat. Moreover, the complex military operations which the United States has mounted in order to exploit the full capabilities of its sophisticated military equipment may be beyond the capacity of the Vietnamese to manage on their own.

The situation in the one area from which all U.S. ground combat troops have been withdrawn, the Mekong Delta, has generally been viewed with considerable euphoria as evidence that Vietnamization is succeeding. But the quiet in this area does not simply reflect a weakening of the communist position but also a clear communist policy of lying low while they rebuild their military forces and political structure for the continuing future struggle.

The predominant, but not unanimous, opinion of senior U.S. and Vietnamese officers in Vietnam is that the North Vietnamese are no longer capable of defeating the ARVN with a massive attack. The issue, however, may be incorrectly posed. The U.S. military ever since 1954 has tended to believe

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[1] As noted in the Staff Report for the Senate Foreign Relations Committee already mentioned ("Vietnam: December 1969," Washington, United States Government Printing Office 1970). The other two factors are improved ARVN leadership and increased South Vietnamese confidence. This latter factor is certainly also related in some degree to U.S. support.

that massive communist attacks represent the main danger of military catastrophe in South Vietnam. Yet when, in late 1964, the ARVN was on the ropes and about to cave in, its weakness was created more by a combination of political malaise and smaller-scale punishing attacks than by massive military actions. The continuing high rate of desertion from the ARVN is certainly not reassuring as to its ability to sustain high losses without grave effects upon morale and effectiveness.

It is evident from President Thieu's cautions views as to the appropriate timing of U.S. withdrawals, as well as from the continuing flow of news reports on the views of American officers in South Vietnam, that many in Vietnam—aware of the persistent, long-standing weaknesses of the ARVN's military efforts—are rather less sanguine than U.S. policy-makers about the prospects for a reasonably early U.S. pullout.

The U.S.-South Vietnamese military action in Cambodia warrants separate treatment since, potentially, it affects all of the factors just discussed. In the short run it is likely to reduce somewhat the capacity of the communists for military action in the Delta and the Saigon area. Longer-run effects are much less certain.

By placing renewed emphasis upon a military solution to the war and raising new questions in the minds of the communists as to the pace of future U.S. troop withdrawals, the action will reduce the incentives the communists have had to lie low in order to encourage such withdrawals. In any event, past communist behavior suggests that they will seek to make some kind of significant military or politico-military riposte to the Cambodian operations. The idea of "cleaning out" the communist sanctuary in Cambodia may seem attractive, but prior experience with "cleaning out" communist base areas should remind us that this is not a once-for-all operation. Communist forces will return after U.S. and South Vietnamese forces withdraw and the United States is now, in effect, committed to an indefinite continuation of such cleaning-out action. The rationale that argued for the original action will argue for its continuance.

Moreover, if the operation seems initially successful, there may be increased pressure for a similar "cleaning-out" operation in southern Laos (the so-called "Panhandle"). This is a very old idea; proposals for doing it were being made at least as long ago as the beginning of the Kennedy administration. While U.S. and South Vietnamese covert military actions in the Laos Panhandle have reduced the pressures for such an operation, "success" in Cambodia is likely to produce renewed demands by the military for more massive and open intervention. The Laos corridor is, after all, a great deal more important than the Cambodian sanctuary to the war in Vietnam. The political arguments against taking such action will seem weaker now that fuller publicity has been given to our involvement in Laos.

Thus, in undertaking to clear out the Cambodian sanctuaries we have increased our long-term responsibilities. The capability of the South Vietnamese to continue such complex, large-scale military actions by themselves is open to question. Moreover, to transfer such responsibilities to the South Vietnamese will, in the longer run, risk serious political difficulties in view of traditional animosities between the Vietnamese and Cambodians (or Lao). But the more basic long term dangers relate to the responsibility the United States may now have assumed for the survival of a non-communist government in Cambodia, a question that can best be discussed as part of a broader consideration of the options open to the communists as the United States withdraws from Vietnam.

For purposes of a more specific analysis of the probable outcome of a Vietnamization and withdrawal policy, we can project three stages or levels of U.S. force withdrawals. In making these projections it is assumed that the administration will not significantly alter its present negotiating position. This will permit us to focus, in this initial analysis, upon the possible consequences of a policy which is based wholly upon a Vietnamization strategy.

II

Withdrawal of most U.S. ground combat forces. The first projected level would involve the removal of all U.S. ground combat troops except for those forces needed to protect base areas containing other U.S. military elements. It would leave about 225,000 military personnel in Vietnam consisting mainly of a full-scale logistic support element, air and artillery elements, and a large-scale military advisory group. Such a withdrawal probably represents the maximum for which specific planning has been undertaken. In late March, a withdrawal down to this level was contemplated by mid-1971, but events since may have set back this target date somewhat.[2] In this situation it seems highly likely that the United States would also retain more or less its present large nonmilitary establishment in Vietnam. Aid, intelligence, information and other such personnel would be needed for their contribution of advice and support to quasi-military and nonmilitary counterinsurgency operations.

The principal danger which the U.S. government appears to foresee under these circumstances is the possibility of major communist attacks upon U.S. forces during withdrawal, or after its completion. Such communist attacks seem a genuine danger, especially if there is no evidence of definite U.S. plans for the early withdrawal of remaining forces. Communist attacks would be designed to demonstrate the dangers of retaining such a residual force in Vietnam and to shake the confidence of the South Vietnamese. The residual forces would have some capability for self-defense of their immediate base areas, but would be dependent for broader area defense upon South Vietnamese ground forces.

If the communists attacked, they would risk U.S. reescalation of the war, perhaps in the form of resumed or expanded air attacks upon the North. They would probably not consider it likely that the United States would reintroduce any substantial number of the withdrawn ground forces. While North Vietnam would certainly prefer to avoid a resumption of air attacks upon itself, past experience has demonstrated to Hanoi and to us that such attacks are unlikely to have a significant effect upon the outcome of the war. Other escalatory steps such as the mining of Haiphong Harbor, a ground invasion of North Vietnam or nuclear action would carry such high political and military costs or have such limited military value as to seem implausible as a threat and very unattractive to America as a form of action.[3]

Any such reescalation of the war would certainly produce a very substantial political reaction in the United States and would recreate the difficult problem of how to de-escalate.

But the communists would have other options. One alternative would be to leave U.S. forces alone but to undertake greatly expanded attacks upon the armed forces and civilian personnel of the government of South Vietnam designed to shake its confidence in its ability to go it alone. American withdrawals to date have apparently not yet seriously disturbed the confidence of the South Vietnamese in their capacity to cope, because those withdrawals have not yet reached the critical point, and perhaps because the government of South Vietnam remains to be convinced that we shall, in fact, withdraw all combat forces in the foreseeable future.

To the communists, major attacks upon South Vietnamese elements could be more attractive than attacks upon U.S. forces. Such attacks would be more likely to raise serious questions about the validity of U.S. assumptions underlying its Vietnamization policy; would be somewhat less likely to provoke U.S. reescalation; and, most important, could very favorably affect the political situation in the South, which must, in all circumstances, be the central communist objective.

A third option, and one which the communists could exercise under all of the scenarios discussed here, is a major military move in Laos. Such a move could have two immediate objectives—to remind the United States of the dangers of continuing to remain on the ground in mainland Southeast Asia and to point to the fact that the Laos problem cannot be settled by Vietnamization of the war in South Vietnam, but must be settled as part of a larger negotiation. Whether moves in Laos earlier this year had some such motivation or were part of the continuing jockeying for military and political position in that country is difficult to say.

Depending upon how far the communists carried their military action, such a move could present the United States with an excruciating dilemma. Continued non-communist control of that part of Laos that borders the Mekong River is viewed as crucial by the Thais and they would certainly place very heavy pressures on the United States to respond to communist action which threatened their Mekong frontier. But open, direct U.S. military involvement in Laos is a very unattractive proposition as President Kennedy perceived in 1961 when he opted instead for a negotiated settlement. It is also obvious that the Laos nerve of the Congressional opposition is exceedingly sensitive.

While we have no explicit commitment to the defense of Laos, we do have rather strong explicit and implicit commitments to the defense of Thailand. Under the Rusk-Thanat agreement, which was a by-product of the 1961–62 Laos crisis, the United States undertook to fulfill what it considered to be its obligations under the South-East Asia Treaty Organization (SEATO) in the event of a threat to Thailand, whether other SEATO members agreed to act or not. Moreover, by participating directly and indirectly in the combat in South Vietnam, the Thais have committed themselves to "our side" in a manner that is quite unprecedented in past Thai foreign policy. To the Thai, the principle of reciprocity in social and political relationships is of key importance. They are

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[2] *The New York Times*, March 25, 1970, p. 1. To reach this level, a withdrawal of 225,000 men would have been required by mid-year, as compared with the withdrawal of 150,000 by the spring of 1971 announced on April 20. More recently, however, Secretary Laird has said that U.S. involvement in ground combat will end by July 1971.

[3] In the view of many experts an invasion of North Vietnam is the one action that would very probably trigger direct communist Chines involvement in the war. While it seems most unlikely that the United States will ever employ nuclear weapons except in a situation involving an attack upon the United States, there is a marginal possibility that the threat of nuclear action might be seen as useful in inducing a political settlement. It is possible that the President's thinking on this subject may be influenced by the view that it was a veiled threat of nuclear attack on North Korea by Eisenhower that produced the Korean settlement in 1953. This is, at best, a debatable proposition and the analogy with Vietnam is open to most serious question.

very likely to view their commitment to us as entailing a reciprocal obligation on our side in the event that they are seriously threatened through Laos.

Even though the Thais have begun to hedge their foreign-policy bets somewhat and may be looking toward a future accommodation with North Vietnam and communist China, we cannot assume that they will not ask for major U.S. support in the event of a serious threat to their Laos frontier. Moreover, the question of Thailand aside, it would be very difficult for the United States to sit still during a military conquest of Laos, both because of the broader international political consequences and because of the potential effects upon Vietnam.

Finally, recent developments have provided the communists with new opportunities for action in Cambodia. They are able to back a leader, Sihanouk, who still possesses considerable popularity and an aura of legitimacy among Cambodians. Utilizing this political base and a combination of Vietcong and North Vietnamese forces with existing Cambodian communist and tribal resistance movements, the communists could make life quite difficult for a weak Lon Nol government. While the establishment of a major full-fledged guerrilla movement will take some time, the communists are likely to be capable of major military forays or the establishment of liberated zones without meeting much effective resistance from the Phnom Penh régime unless that régime receives direct U.S. or South Vietnamese military support.

The United States has now implicitly, but clearly, accepted responsibility for the security of a non-communist government in Cambodia. In his April 30 speech, the President argued that the communists posed a threat to the independence of Cambodia and he represented the military action against the Cambodian sanctuaries as response to the Cambodian government's plea for outside aid. The United States, "with the chips down," had come to the support of a small nation under attack. While the President has since denied that we have undertaken a new commitment, the administration has apparently given its blessing to a developing de facto alliance between Thieu and Lon Nol. Thus, the commitment has not been eliminated, but only made somewhat indirect.

In any of these situations, the United States would face some very difficult and unattractive policy choices. So long as there continues to be a substantial U.S. presence in South Vietnam, America is inextricably caught up in the defense of South Vietnam. Moreover, our actions have increasingly committed us to the continued survival of the Thieu government. Yet, as our experience since 1965 demonstrates, we cannot even begin to redeem our commitments without employing U.S. ground combat forces. Thus, in a situation where the communists attack U.S. or South Vietnamese forces and the South Vietnamese demonstrate an inability to cope with the attacks, the United States will very likely face the options of letting the attacks succeed or of reintroducing ground forces. The potential problems presented by Laos and Cambodia illustrate the now obvious fact that we are caught up in an Indochinese struggle and that a solution confined to Vietnam is no complete solution.

III

Withdrawal of logistic support forces. At the second projected level, with both ground combat and logistic support forces withdrawn, the U.S. military presence would be reduced to an advisory effort and, perhaps, continued air and artillery support. An advisory group of 25,000 to 50,000 has been mentioned in the press. If nonmilitary as well as military personnel are included, 50,000 would seem a fairly conservative estimate in view of the fact that 23,000 civil and military advisers remain in the Mekong Delta after withdrawal of all U.S. combat troops from that corps area. (There are four corps areas in South Vietnam.)

The immediate military arguments for retaining U.S. air and artillery support under these circumstances are likely to seem quite compelling. Such support would strengthen South Vietnamese capabilities, help protect American advisers and give those advisers more leverage in their attempts to influence Vietnamese military and nonmilitary actions. But arguments based upon longer-term political, military and ethical considerations would be much more negative. To mention the ethical argument only at this point—we draw back in horror from the Mylai massacre, yet, so long as we continue to bomb South Vietnam, we unavoidably perpetrate many such indiscriminate killings, differing from those at Mylai only in their more impersonal character and in the presumed intent of those involved in the killing.

If the United States reduced its involvement to an advisory effort, would we be well out of the woods in Vietnam? The answer, quite clearly, is no. We would simply have begun to get out of Vietnam the way we came in and, along the way, would very probably confront the old dilemmas that caused us to deepen our involvement so drastically in 1965.

If the communists had permitted us to withdraw U.S. forces to this level without reacting in one of the ways earlier discussed, their failure to react would perhaps reflect an assumption that the faster the United States withdrew, the less effective the U.S. program of Vietnamization and the better the prospects for early communist success. They would have taken us at our word that U.S. withdrawals would be related, in part, to the level of communist activity. Only if withdrawals were occurring at a quite steady and rapid pace would such a strategy be likely to seem attractive to the communists.

Once we were down to a residual advisory force (with, perhaps, air and artillery support) and it appeared that we were likely to maintain that force in South Vietnam for the indefinite future, the incentive situation would change. The communists would then very likely see it in their interests to undertake a program of political and military pressures directed against South Vietnamese forces and officials designed to produce major political changes in the South and to make the United States confront the untenability of its policy. They would seek, in this effort, to exploit war weariness and the adverse morale effects of the withdrawals in the South. They would probably consider it quite unlikely that the United States would respond by reintroduction of ground forces.

Would the government of South Vietnam be able to cope with renewed pressures? Clearly, estimating becomes extremely hazardous because this point is quite far down the road and much could happen on both the communist and non-communist sides between now and then. If the pessimists with respect to prospects for successful Vietanmization are correct, the South Vietnamese government could be in serious trouble. Moreover, many observers in South Vietnam who are optimistic about the ability of the South Vietnamese to defend themselves militarily are skeptical of the Thieu government's ability to survive in a political struggle with the National Liberation Front. Furthermore, and rather paradoxically, if Vietnamization should succeed in providing relative military security, that very security might encourage the reëmergence of the atomistic, dog-eat-dog politics so characteristic of Vietnam, which would provide increased political opportunities for the communists.

Confronted by these uncertainties, one proposition of which we can be quite certain is that the communists would not stop trying to cause serious trouble in the South. Another proposition of an almost equal degree of certainty is that the South Vietnamese government and its forces would not be free of serious vulnerabilities. From these propositions we can draw the rather obvious conclusion that there would be some clear risks that the communists would produce significant political and military deterioration in the South.

If such deterioration should occur, the presence of U.S. advisory elements could present the United States with serious dilemmas. The possibility that our large advisory group might be caught up in a politically or militarily collapsing situation would be likely to seem as horrendous a contingency to policymakers in, say, 1974 as it evidently seemed to President Johnson and his advisers in 1965. If we were faced by political deterioration, the strong temptation would be to shore up the government of the day in the South or to back whatever leadership promised to continue the struggle against the communists. Even a gradual, relatively peaceful, takeover by the communists would be embarrassing, to say the least, if it occurred with 25,000 or more U.S. advisers and billions of dollars of U.S. military equipment still in Vietnam.

Thus we return to the rock-bottom fact that so long as the United States is committed physically and politically to any degree in South Vietnam, there is always a risk that we shall pay, and pay dearly, for that commitment. As in the past, our first inclination in a weakening situation will be to throw more economic and military materiel into the breach. But if that fails, we would confront the question of military reinvolvement. If we retained U.S. air and artillery forces in the South, we would have more to work with from a military point of view, but it would, by the same token, be easier for us to slip into a deeper military involvement.

IV

Withdrawal of all special U.S. advisory elements and all combat forces. For purposes of analysis, it is assumed that, at this level, the United States would withdraw all special civil and military advisory missions and, if they had been retained earlier, all air and artillery units. Such a withdrawal would be based upon the assumption that the South Vietnamese no longer needed such support. In effect, we would consider that we had "won" the war, temporarily at least. Our relationship to South Vietnam would revert to the situation that existed prior to 1961 before the Kennedy administration build-up of advisory and air units. While no one seems to be thinking of this as a serious possibility for the foreseeable future, it is a case worth examining because it presumably represents the final goal of a policy based wholly upon Vietnamization of the war.

We must assume that in such a situation we would continue to be involved in a substantial aid program to South Vietnam. Unless the communists had faded almost completely away—a most unlikely contingency—the South Vietnamese would need to maintain a substantital military establishment for some time. The large quantities of military supplies and equipment which we have supplied in the past, and are presently augmenting under the Vietnamization program, would need to be maintained and replaced. Even in the very unlikely event that there was little sense of immediate threat, the United States would be likely to pour substantial amounts of materiel into Vietnam for the indefinite future if for no other reason than as insurance to reduce the risk of future combat reinvolvement.

A large South Vietnamese military establishment would place demands on the South Vietnamese economy which would force the

continuance of substantial U.S. economic aid. Reconstruction needs would require additional assistance. These military and economic aid programs would, in turn, mean a continued large aid establishment in South Vietnam. Hundreds—very likely thousands—of U.S. military and civilian personnel would remain in the South.

In the absence of a negotiated settlement, the United States would very probably confront the question of security guarantees for South Vietnam. The government of South Vietnam would be likely to press strongly for some kind of bilateral or multilateral guarantee before the last American combat elements departed. The Geneva Accords machinery, established in 1954, has broken down quite completely and could hardly be glued back together again without a new international agreement. While current U.S. public opinion, Congressional attitudes and stated administration policy would all suggest that we would be unlikely to commit ourselves in any way that might seriously risk future combat reinvolvement, what would an administration which is formally committed to the continued independence of South Vietnam do in such a situation? It would be unlikely to feel that it could cast South Vietnam adrift after having "won" the war; it would fear that such action would simply encourage the communists to resume the struggle after our departure.

To assume that we shall arrive at this point within the context of a policy based upon seriously intended Vietnamization is to assume that the military capacity and the political threat of the communists have been temporarily, at least, severely blunted. It is not to assume, however, that the communists have no significant military or political capabilities and it is decidedly not to assume that they have given up the struggle. Hanoi has an interest in South Vietnam that is, ultimately, deeper than our own. We may leave, but the communists will not quit. The communists would, following a U.S. departure of this scale, very likely initiate a gradually mounting program of pressures. How severe these pressures would be would depend in part upon the extent to which our withdrawal was made possible by our genuine success versus the extent to which it was made possible by a deliberate communist policy of lying low in order to encourage the final departure of U.S. combat and advisory units and to preserve communist assets for the future struggle.

The ability of the United States to stay out of that future struggle would be inhibited by our continuing substantial presence in South Vietnam and by our probable commitments to its continued survival as an independent entity.

V

The preceding discussion suggests some of the problems ahead and directs our attention to action that might minimize the risks involved in our policies. That discussion and what follows are based upon the assumption that, as indicated by the President's statement last November, the United States sees Vietnamization as a viable substitute for negotiations leading to a political settlement in the South. One must, however, bear in mind the possibility that the administration has not, for tactical reasons, revealed its full strategy and that its planning has, in fact, linked the strategies of Vietnamization and negotiated settlement along lines discussed below. Alternatively, the President may have hoped that a Vietnamization and withdrawal policy would induce the communists to lie low and thus permit us to get out of Vietnam with minimum casualties even without a negotiated settlement. The administration may have been willing to accept a fairly high probability of a communist takeover thereafter. Both of these speculations run counter to past public explanations of policy, and in the wake of the Cambodian action and the justifications that have been offered for it, both now seem quite unlikely interpretations of administration intentions.

Increasingly it has become evident that, as Chalmers Roberts noted some months ago in *The Washington Post,* President Nixon, like President Johnson before him, wants to "win" the war in Vietnam in the sense that he wants to leave behind a non-communist government in Saigon able to withstand any communist threat. This objective has been reflected in our continued support of the Thieu government in its opposition to any agreement in Paris which would clearly provide for substantial participation by the communists in political power in South Vietnam. Seen in this perspective, the Vietnamization strategy is clearly a strategy for winning the war. A serious U.S. negotiating position would involve acceptance of the fact that, while we have not lost the war in a military sense, neither are we capable of winning it. Being incapable of winning it and confronted by a foe who is certain to outlast us because of the higher relative value he places on success in the effort, we have in effect, even though not in fact, lost the war.

One of our recurrent hopes, which was revived in connection with the Cambodian operation, is that a show of great determination will cause the commission to see negotiations our way. But neither border operations nor resumed bombing of the North is any more likely to achieve this objective than past efforts to bomb North Vietnam into reasonableness.

Four specific defects of a policy based wholly upon Vietnamization have been suggested:

1. Vietnamization makes no provision for a political accommodation between the communist and non-communist forces in South Vietnam. It therefore leaves the central issue of the Vietnam struggle unresolved. With this issue unresolved we can anticipate continued political instability and continued political and military strife in the South.

2. Vietnamization by itself provides no assured basis for the total withdrawal of U.S. military personnel, including military advisers, within a reasonable time period. If the struggle continues, therefore, it is quite likely that we shall remain involved in it, with all the risks attendant thereto as sketched above.

3. Without new international machinery, obtained through negotiations, the United States will lack any body or arrangement to which it can shift the burden of responsibility for Vietnam. (I am not sanguine that, under the best of circumstances, we shall obtain very strong machinery. But some kind of machinery, weak though it may be, is essential if we are to lay our burden down in a reasonable period of time.)

4. Vietnamization fails to deal with the problems of Laos and Cambodia. Laos is a serious vulnerability for America; a convenient pressure point for the communists. For both it is a secondary theater of the Vietnam war. So long as the United States maintains a significant presence in South Vietnam—or even if it is largely out of South Vietnam, but remains committed to its defense—it can hardly agree to a settlement in Laos which would give North Vietnam free access to the corridor through eastern Laos into South Vietnam. To accept a Laos settlement which precluded the harassment of communist movement through the Laos corridor would be to leave South Vietnam with a serious vulnerability which would certainly be exploited by the communists in the absence of a political settlement in South Vietnam. On the other hand, without a political accommodation in the South, the communists are most unlikely to agree to a Laos settlement which effectively inhibits their use of the Laos corridor. Thus, a settlement of the central issue of the Vietnam war is necessary to a meaningful agreement with respect to Laos.

In Cambodia we have assumed a double responsibility: first, for preventing the border areas from being used by the communists to threaten U.S. and South Vietnamese forces; and second, for maintaining a non-communist government in Phnom Penh. We are unlikely to be able to divest ourselves of either responsibility so long as the political struggle continues in South Vietnam.

Because each of these defects could give the United States most serious trouble and because none of them could be resolved without serious negotiations, it is clear that Vietnamization without such negotiations is most unlikely to succeed in extricating the United States from Vietnam within a reasonable time.

Given limitations of space, it is hardly possible to do more than sketch out below the manner in which the policy of Vietnamization might be re-coupled to a negotiating strategy. Vietnamization represents a useful and necessary part of any plan for extricating ourselves from Vietnam. It involves a return to the principle upon which President Kennedy insisted and which we abandoned with the escalation of 1965—the principle that this is a Vietnamese war which ultimately can only be won, if it can be won at all, by the Vietnamese themselves. It is useful to return to this principle not only because it is correct but also because it provides the United States with a reasonable and understandable policy posture, both in the United States and in Asia. Reliance upon this principle will help reduce the political costs of U.S. withdrawal. The main danger in the Vietnamization policy is that it will be taken too seriously in the sense that we come to believe that it offers a real prospect for a "successful" outcome of the war.

A genuine effort to reach a truly viable settlement must begin with the recognition that the political role of the communists in the South is the heart of the matter. However, as Henry Kissinger, Assistant to the President for National Security Affairs, recognized in an article published in *Foreign Affairs* in January 1969, any agreement on this issue must be achieved, among the parties in South Vietnam itself. This places the United States in the difficult position of being dependent upon the government of South Vietnam for achievement of a settlement through negotiations, just as it is dependent upon that government in any effort to achieve success in the South through Vietnamization. If the United States is willing to abandon the concept of Vietnamization as a kind of "win" strategy and view it instead as an essential part of a political settlement strategy involving negotiations, it can be a useful tool in creating the conditions for a political accommodation in the South.

Under these circumstances, the policy of Vietnamization and U.S. force withdrawals would be utilized to make clear to the political elite of South Vietnam that it must decide, in a relatively limited period of time, what kind of political arrangements in the South are supportable on a long-term basis without continuing substantial U.S. assistance. In order to force such a decision, the United States would need to set a quite early deadline for the withdrawal of *all* U.S. forces, including logistic support, advisory and air and artillery elements.

It could be argued that such a deadline should be given to the South Vietnamese privately in order to maintain the theoretical bargaining leverage provided by communist uncertainty as to how long the United States will stay in Vietnam. But as a practical matter any deadline given to the South Vietnamese will soon be known by the North. Moreover, a public declaration of intent has the advantage of making the decision more irreversible and thus forcing the South Viet-

namese elite to confront its situation more quickly and frankly. It also has the virtue of reducing the likelihood of dilemma-creating attacks by the communists on U.S. or South Vietnamese forces.

A public American commitment to total withdrawal by a specified deadline, rather than reducing communist incentives to negotiating an agreement, could under proper circumstances actually enhance them. It is already evident from communist behavior that they feel little, if any, incentive to negotiate under present circumstances in which the United States refuses to confront the central political issue in the South and in which it seems bent upon withdrawing at least its ground combat forces at no price to the communists. A commitment to withdrawal which is part of a strategy clearly directed toward achievement of an accommodation between communists and noncommunists in South Vietnam would encourage, and could necessitate, a serious negotiating effort by the communists.

Even though the communists may believe that the political odds clearly favor them, they too confront uncertainties about the future which could be reduced, though not eliminated, by a negotiated settlement. The most obvious uncertainties are those relating to the effects of the Vietnamization program upon the military capacity of South Vietnam, especially if the United States continued "normal" military and economic aid programs after its force withdrawals.

Although the United States cannot itself negotiate political arrangements in the South, it can utilize an active secret diplomacy for exploration of the issues involved and, in this manner, could put additional pressure on Saigon. It is likely that the Thieu government's initial response will be to stiffen its already tough negotiating stance. A policy of continued active, unqualified support for Thieu is inconsistent with a successful American negotiating strategy. We need to draw back from our embrace of Thieu. He is providing us ample excuse for doing so in his increasingly repressive political actions. As we did in 1963 in the case of Diem, we need to make evident to the Vietnamese elite, including the military, that we are not committed irrevocably to the present government.

If, as rumored, Ambassador Bunker will soon leave Saigon, we shall be provided with an opportunity like that which occurred in 1963 with the shift from Ambassador Nolting to Ambassador Lodge to disengage from the existing regime. Our objective should not be the overthrow of the Thieu government, but rather the creation of a set of political pressures which would make political accommodation with the communists more likely. These pressures might lead to the replacement of Thieu, but Thieu might, if he comes to accept the necessities of the situation, be the leader of the effort to reach an accommodation.

If we can resolve the central political issue of the role of the communists in South Vietnam, it should then be possible to negotiate a new international framework—or to revive the Geneva framework—so that we can rid ourselves of our unilateral responsibility for the future of South Vietnam. It is hardly realistic to deal with the problem of Laos in a sentence, but the most obvious solution would be to negotiate a de jure partition along the lines of the present de facto partition. Such an arrangement would offer the Thais protection of their Mekong frontier while permitting the communists to continue to hold the areas that they have so long occupied and from which we are, in any event, incapable of dislodging them. However, with a settlement in South Vietnam, a less linear solution to the Laos problem may be more likely and more feasible. The Cambodian situation is too fluid for prescription, but an agreement to put back in power a Sihanouk, who at the moment is communist-leaning, might provide a solution that we could swallow and that would be acceptable to the communists.

The strategy proposed here rejects a simple U.S. pullout, such as is espoused by many critics of the war. Such a pullout would be likely to be seen by some Asians who are still important to us as a simple abandonment by the United States of its assumed responsibilities and would be likely to carry international political costs that it would be better, if possible, to avoid. On the other hand, the strategy is based upon the assumption that we cannot win the war through Vietnamization or any other means. It would require us to accept what would be, at best, a communist-leaning government in the South and a strong likelihood of the future reunification of all of Vietnam under communist auspices. Such a unified Vietnam is quite likely, however, to be able to maintain its independence from communist China.

It is obvious that it is precisely because this is the likely outcome of any serious negotiation that both President Johnson and President Nixon have resisted taking the actions necessary to produce an agreement. While such an outcome is regrettable in terms of the objectives we have sought in the postwar era, it is also inescapable. It is even more regrettable that we did not recognize this outcome for the necessity it was in 1965 and that we have had to pay such a tremendous price in lives lost and domestic problems unsolved in order to learn some lessons about revolutionary warfare in Vietnam and about the limitations of our power. To continue to refuse to recognize this necessity is to perpetuate the error and the costs.

A LOOK BACK AT THE WEIMAR REPUBLIC—THE CRY WAS, "DOWN WITH DAS SYSTEM"

Mr. SAXBE. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "A Look Back at the Weimar Republic—the Cry Was, 'Down With Das System,'" written by Walter Laquer, and published in the New York Times Magazine of August 16, 1970.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A LOOK BACK AT THE WEIMAR REPUBLIC—THE CRY WAS, "DOWN WITH DAS SYSTEM"

(By Walter Laquer)

(NOTE.—Walter Laquer is director of the Institute of Contemporary History and Wiener Library in London, and a professor of politics at Brandeis University.)

To understand their own troubled times, to find comfort and guidance, men and women always look to the past. The American Revolutionists turned to 17th-century England, the militants of 1793 drew inspiration from revolutionary episodes in Roman history, the 19th-century decadents were fascinated by the decline of the Roman Empire. Such immersion in the past is only partly motivated by a thirst for knowledge; at least equally strong is the desire to find proofs and arguments to support political beliefs already held. As Anatole France said about one of his heroes: He looks in the history books only for the *sottises* which he already knows. But the invocation of the spirit of the past is no less interesting for the myth-making involved.

Seen in this context, the growing attention paid in America in recent years to the culture and politics of Germany between her defeat in World War I and Hitler's accession to power is not surprising. It was a fascinating period in almost every respect, but this is not why it figures so prominently in recent discussion. Some writers have detected striking parallels with present-day America, but even those who deny this feel sufficiently troubled to devote much time and effort to disprove these analogies.

The debate itself is a manifestation of deep malaise, common apparently to both ages, and reflected in the disintegration of established authority, the contempt shown for the "system," the cult of violence, unreason and intolerance, the belief that almost any political and social order would be preferable to the present, and the alienation of large numbers of the young generation.

This is not to say that the political situation in America today resembles that of Germany after 1918. Germany had been defeated in war, the Kaiser had been expelled, a harsh peace treaty had deprived the country of substantial parts of its territory and had imposed reparations which it was clearly unable to pay.

Power was at first in the hands of the Social Democrats, but at no time did they have an absolute majority. Nationalist passions were running high, millions of Germans were convinced that their armies, victorious in the field of battle, had been stabbed in the back by the enemy within. The confidence gained in the years of normality after the political and economic breakdown of 1922–23 was destroyed by the impact of the world economic crisis (1929–32), and support for the radical parties of the left and the right became overwhelming. Their mounting strength effectively paralyzed the democratic process.

Both left and right referred with contempt to an outmoded liberalism which did not express the popular will, to the rottenness of parliament, the sickness of society. "In the liberal man German youth sees the enemy *par excellence*," wrote Moeller van den Bruck, who coined the phrase *"das dritte Reich"* (the third Reich). Most students favored a socialism of sorts and demanded the overthrow of *das System;* many of their elders were proud of their fighting spirit and their revolutionary ardor.

There were some dissenting voices; in a speech in October, 1930, Thomas Mann warned against the new wave of barbarism, fanaticism and ecstasy, the monotonous repetition of slogans "until everyone was foaming at the mouth." Mann with all his skepticism had grown up in the humanist school of the 19th century with its optimistic view of human nature and of progress; to him and others of his generation the retreat from reason seemed not only utterly abhorrent but totally inexplicable.

The political history of the Weimar Republic is a tale of almost unmitigated woe; culturally, with all its tensions and despair, it was a fertile period, a "new Periclean age" as a contemporary called it. These were the years of the revolutionary theater and the avant-garde cinema, of psychoanalysis and steel furniture of modern sociology and sexual permissiveness. It was a time of exciting new ideas and cultural experimentation, of the youth movement and youth culture. German literature and the arts, the humanities and science, were generally considered the most advanced and most authoritative in Europe. Christopher Isherwood's Berlin was the most exciting city in the world.

Weimar culture had an impact that outlasted the Third Reich and can easily be discerned in America today. The rediscovery of Brecht and Hesse, of George Grosz, the Bauhaus, and "Dr. Caligari," of psychoanalysis and modern Marxism (to mention only some of the more fashionable imports) are obvious cases in point. Certain cultural parallels are almost uncanny: the chic radicalism of New York clearly evokes memories of the drawing-room Communism of Berlin West. The phenomenal revival of astrology

and various quasi-religious cults, the great acclaim given to prophets of doom, the success of highly marketable *Weltschmerz* in literature and philosophy, the spread of pornography and the use of drugs, the appearance of charlatans of every possible description and the enthusiastic audiences welcoming them—all these are common to both periods.

Yet at this point the resemblance ends, for with all its perversities Weimar culture had a creativeness and a depth without equal in present-day America radical culture (and counterculture), which is largely eclectric and secondhand. The difference in the general cultural level, to put it bluntly, can be measured by the distance between "Portnoy's Complaint" and "The Magic Mountain." This is all the more remarkable since what is now commonly defined as "Weimar culture" was produced (and consumed) by a small group of people: some tens of thousands, rather than the millions who today constitute the American intelligentsia.

Political comparisons between the Weimar Republic and contemporary America are not, as I have said, very helpful. The United States was not defeated in a world war; aggressive nationalism and revanchism are not the main issues at stake today; democracy in America is not a foreign importation of recent date, as it was in Germany after 1918, where it failed to strike root. The extreme right in America is not a great dynamic force and racialism is on the retreat. The American crisis, such as it is, is not the result of a major economic crisis; on the contrary, it is the outcome of a long period of unprecedented prosperity.

And yet, with all the differences, Germany serves as a useful object lesson in one vital respect: to show what happens in a country where reason abdicates, where democratic authority disintegrates, and political freedom is sacrificed as those who should know better are afflicted by a failure of nerve.

The German radical intelligentsia of the left showed little wisdom in face of the Nazi onslaught. Following the Communist lead, they regarded the Socialists, not the Nazis, as their main enemy. They claimed (as some of their American successors do now) that there was no basic difference between Fascism and liberal democracy. In 1931, when Germany was a parliamentary democracy, they asserted that Fascism was already in power, so that as far as they were concerned Hitler's take-over came as an anticlimax. The German left-wing intelligentsia (unlike the French) jettisoned in its politics not only patriotism—which by itself would have been suicidal—but too often common sense as well.

The main weakness of the moderate Socialists and the German liberals was that they lacked not just inspired leadership, but the courage of their convictions. They were incapable of decisive action when the advent of Fascism could still have been averted. Unlike the Nazis and the Communists, they had no ideas, no faith or promise to offer to the young generation, only the sober, reasonable, unemotional, and tired explanation that democracy was probably the least oppressive of all political systems. This was not very satisfactory for a young generation in search of the Holy Grail. The German democrats, of whom in any case there were not too many, suffered from a paralysis of the will to survive.

Individual Jews took a prominent part in the radical movement of the left. Some were in key positions in the mass media and suffered from the delusion that their calling was to act as the conscience of the nation—as they understood it. They never realized how much out of tune they were with the mood of the nation. Having lost their own moorings in history, dissociating themselves from the Jewish community but not fully accepted by the Germans either, it was easy for them to deride national symbols—always, of course, on behalf of a great messianic idea.

The majority of their co-religionists had nothing to do with them, but in the eyes of the public they represented the urge to negation and destruction and their tactless behavior increased the latent anti-Semitism. Lacking political instinct, they did not realize that they were harming the very cause they wanted so much to promote. In the end even the extreme left deserted them.

The right-wing intelligentsia behaved disgracefully at its time of trial. Communist workers and monarchist land-owners occasionally put up courageous resistance, but only a handful of intellectuals opposed Hitler. There were still many simple, uneducated people in Nazi Germany whose scale of moral values had not been perverted and who felt in their bones that Nazism was evil and that there would be a day of reckoning.

The young intellectuals, on the other hand, trained to provide an ideological apologia for every abomination, were in the vanguard of the Nazi movement. Hitler's party won a majority in most universities well before it gained strength in the country at large. The clamor for a political university teaching only one political doctrine met no resistance from weak-kneed professors and administrators. The old humanist traditions and the idea of the inalienable rights of men were rejected as irrelevant. The conformism which overtook the academic world was frightening; the great majority plunged into the wave of the future, some out of cowardice and opportunism, others from sincere conviction.

Having said all this, one must point to certain extenuating circumstances which explain, though they do not excuse, this weakness and confusion. Germany was facing a crisis of unprecedented magnitude. Since 1914 it had experienced only five years of relative stability and prosperity (1924–29). In 1932 industrial production was only 60 per cent of what it had been three years previously, and more than one-third of the labor force was out of work.

The Government seemed utterly unable to deal with the crisis, and the conviction rapidly gained ground that only a strong leader could save the country from chaos. The German intelligentsia was numerically small and politically uninfluential; Hitler would have come to power whatever its behavior.

After 1945 those who had voted for Hitler disclaimed responsibility. They had meant to support a movement of national and social revival, not a terrorist regime and a relapse into barbarism. How could they possibly have known what Nazism would be like? Equally those who supported Communism in 1930 could claim that the Soviet experiment, still in its early stages, was much more promising than the movements for piecemeal reform. The realization of Lenin's dream of a revolution that aimed not merely to seize political power but to share it among the people, of a far more progressive and democratic system, seemed just around the corner.

Four decades and a dozen revolutions later, history has shown that the outcome of any attempt to establish a socialist regime which bypasses democracy, is bound to be a dictatorship, oppressive, fundamentally reactionary in character, and not unrelated to Fascism.

The last years of the Weimar Republic were a period of almost unmitigated gloom. But there is, I believe, one basic difference between 1932 in Central Europe and present-day America. Whereas the German disease was imminent and in all probability incurable, the confusion and loss of balance in America are to a large extent self-inflicted.

There are, to be sure, serious problems: Vietnam, the race question, the growing realization that traditional liberalism may no longer have the answers to the problems besetting the country. But serious problems are not usually solved by apocalyptic predictions about Babylon the Great, the mother of harlots and abominations. (The language of American radical literature, let it be noted in passing, seems to owe more to the Revelation of St. John the Divine than to the Communist Manifesto.)

The retreat from reason is gathering strength; a distinguished Princeton professor recently wrote in an equally distinguished journal that the moderate majority on campus sees the world in much the same way as it was seen by the New Left in April. It has absorbed many of the New Left's ideas but has impatiently pushed the S.D.S. leaders to one side, rejecting their tired rhetoric.

Which takes us right back into the world of the German cinema of the early nineteen-twenties, of "Dr. Caligari" and "Dr. Mabuse," of lunatic asylums where the psychiatrists take on the role of the psychotics, determined to show what learned madmen are capable of doing provided they jettison restraint and good sense.

Periods of grave mental confusion are less infrequent in history than is commonly thought, and they have to be studied with detachment and sympathy rather than with anger and moral indignation. Intellectuals are not necessarily the most reliable guides in such unhappy periods. By long tradition they are second to none in their sensitivity to the inequities of the world. At the same time many of them lead a sheltered life.

Even the students of society and politics among the academics all too often have little contact with real life; questions about next year's curriculum are the most important issues they have to decide. In their seclusion there is a constant temptation to devise political constructions firmly rooted in mid-air, in which everything seems possible, in which governments and political authority in general are replaced by communes of free and equal individuals, in which society exists without repression, and domestic policies require no sanctions, diplomats always tell the truth, and a foreign policy is pursued in which the wolf lies down with the lamb, and the leopard with the kid, under the supervision of Prof. Noam Chomsky.

Such utopianism may be needed as a corrective to the cynicism of the professional politicians and to unthinking conservatism. But once the divorce from reality becomes too pronounced, the results are ludicrous or dangerous or both.

Nowhere is this danger greater than in America, which has never accepted Max Weber's dictum that he who seeks the salvation of the soul, his own and others', should not seek it along the avenue of politics, for whoever engages in politics lays himself open to the diabolical forces lurking in all violence.

The present wave of cultural discontent and protest has appeared in all democratic countries, but some societies are more vulnerable than others. Certain causes are sociological: the expansion of the universities with a heavy preponderance on subjects which no longer prepare their students for any specific job in society; the emergence of the intelligentsia as a class with its own unfulfilled ambitions in the struggle for political power.

Some aspects of the present unrest are familiar to students of youth movements (of which Fascism, incidentally, was also one); others confirm the findings of those who have investigated the pattern of aggression found among young adolescents in society, both primitive and modern.

(This can be seen in the communal riots in Ireland and India or the Charrot factions of Byzantium. A student of war wrote the other day in The Times of London: "It involves confrontation with taunts, grimaces,

'pointing' and war cries, while the adversary is called animal names, usually monosyllabic: long hair and aggression often go together, e.g. in Vikings, Sikhs, and Chindits. . . . The war urge comes first and the *casus belli* after, instead of the other way round. . . . If one cause of grievance is removed or shown to be nonexistent another is quickly found. The act of removal is merely a further irritant and may even of itself be dangerous.")

Beyond these general features there are some specific ones which make America especially vulnerable. Measured by absolute standards, America is no doubt full of repression; compared with other periods and countries it is one of the freest societies that have ever existed. It faces enormous problems; yet compared with those confronting other countries they are, to the outside observer, not exactly overwhelming. How then to explain that for so many young Americans and for some of their elders, their country has become the epitome of repression, a country unfit to live in, a society doomed to perish?

To the outside observer this is perhaps the greatest riddle. It may be connected with the traditional exaggeration in American speech which Dickens derided more than a hundred years ago, and which in recent years has reached new heights of absurdity. The use of terms such as genocide, Gestapo, Auschwitz, is disturbing, for it betrays a lack of historical perspective, a provincialism and narrowmindedness so monumental as to make rational discourse impossible. It may be partly rooted in the traditional American hypochondria (also reflected in the enormous number of pharmacies and surgical operations), the state of mind in which any physical or social affliction, real or imaginary, immediately turns into a fatal illness.

Perhaps it has to do with the traditional American naiveté and the surfeit of idealism—engaging qualities in themselves but potentially dangerous. For they reflect a predisposition to be taken in by demagogues and their slogans. How else to explain the enthusiastic support given by so many well-meaning young Americans to causes and movements which, below a thin veneer of "progressive," anticapitalist, anti-imperialist verbiage, are unmistakably proto-fascist in character and which, if given power, would establish a rule of terror and oppression such as America has never known?

Which demagogue in history has not demanded "Power to the people," has not promised freedom and social justice? Yet such are the confusion and the blindness that no one wants to hear about history and the experience of other countries. It is this unthinking acceptance of slogans which constitutes perhaps the closet and most frightening parallel to the lost generation of the nineteen-thirties in Europe.

Commenting in his French exile on the suicidal policy of the governments of the day, Trotsky once wrote that he felt like an old physician with a lifetime of experience behind him who was not consulted at a time when someone dear to him was mortally ill. Europeans who lived through the nineteen-thirties and who have not been infected by the disease will react in a similar way.

Whether they have any cure to offer is less certain, and anyway it will hardly be accepted. The historical memory of a new generation does not reach back very far and the lessons of historical experience cannot be bequeathed by will or testament. Each generation has to commit its own mistakes and will have to pay for them.

Unlike Europe, America has never experienced a ruthless dictatorship or foreign invasion; civil liberties of a precious kind are taken for granted by the middle-class radicals; there is a great deal of loose talk about creeping dictatorship, but few of them have the faintest idea what it would really mean. It will be (if it should come to that) a rude awakening and it may be—as a generation of Europeans realized at the time to its detriment—too late for second thoughts.

For this much seems certain: society does not suffer anarchy for very long. It is impossible to predict whether authority will be reimposed by the right or the left if the crisis should deepen further, or by a populist mixture of both, but in any case democracy as we know it may not survive the process.

In contrast to widespread popular belief, history does not repeat itself; luckily therefore a repetition of the German catastrophe is not a foregone conclusion. But in one essential respect serious damage has already been done. World peace, the independence of Western Europe, security in the Middle East and other parts of the world depend at present on the balance of military power between the United States and the Soviet Union.

It is a highly unsatisfactory situation; it would be vastly preferable if it depended instead on the wishes and hopes of men of goodwill all over the globe. Regrettably this is not the case. No particular gifts of prophecy are needed to predict the future course of world politics if this balance is radically upset by a paralysis of American foreign policy, an inevitable by-product of the trend toward neo-isolationism.

This trend may be only the beginning of a disastrous process which could eventually affect other parts of the world. Such a prospect may not give rise to alarm among those who would welcome a defeat of their country, because, as they see it, it would mean the victory of "revolution."

But those not living in the fantasy world of the New Left know that the only revolution likely to prevail is that which now rules in Czechoslovakia and the thought does not fill their hearts with joy. If America's position in the world were that of Sweden, the present crisis could be regarded with greater equanimity. Sooner or later it will no doubt run its course, and, for all one knows, the country may emerge stronger from it. But America, for better or worse, is not Sweden, and it is not the future of America alone which is at stake.

It is unfortunate that the role of leadership should have been thrust at the end of the Second World War on a nation unprepared for the role. It is largely Europe's fault; unable to make a concerted effort, it has not asserted its role in the world and taken on itself part of the burden which has become too heavy for the United States. It is the foreign political aspect of the American crisis which now looms most prominently in the eyes of outside observers, for it is this which makes it potentially more dangerous than the European crisis of the nineteen-thirties.

These concerns and fears will not be shared by those deeply immersed in their debates on repressive desublimation and the merits of vaginal orgasm, not to mention other subjects of topical and cosmic relevance.

Kurt Tucholsky, the great writer who in many ways was the epitome of the radical intelligentsia of the Weimar Republic, wrote in 1935 from his exile in Sweden that "we have to engage in self-criticism, in comparison with which sulphuric acid is like soapy water." A few days later he committed suicide.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the pleasure of the Senate?

Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may proceed for 12 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator is recognized for 12 minutes.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENTS

OPPOSITION TO THE MUSKIE AMENDMENT

Mr. ALLEN. Mr. President, I rise to oppose the Muskie amendment to H.R. 17123 because of the added expense it will cause, because it will impair the obligation of a valid contract, because it will cause disorder and confusion and will raise many serious questions.

Among the questions raised by the amendment is the following: What will be the contract price for the 15 destroyers to be built by the subcontractor?

The bid by the Bath Co. was $9 million per destroyer more than the bid of the Litton Co. If the contract is taken away from the Litton Co., which has the contract for the 30 destroyers, and the Bath Co. is given a contract for 15 destroyers, it is certainly very definite that the price that the Bath Co. would charge would be at least $9 million more per destroyer than the amount for which the Government now has a contract.

What would then be the price for the 15 destroyers to be built by Litton? Their contract is for 30 destroyers. If the contract is cut in two, so that the number to be built by Litton is reduced to 15, quite obviously the price would have to go up on the 15 destroyers retained by Litton.

Then it is contemplated by the amendment that the Litton Co., which has the contract for the 30 destroyers, would remain as the prime contractor, recognizing that it has a valid contract for the building of the 30 destroyers, but requiring it to subcontract 15 of those destroyers.

This amendment, with all due respect, would create a great state of confusion and would open a Pandora's box. Certainly it would create more problems than it would solve.

It is provided that—

> No funds authorized by this Act may be expended for the procurement of DD 963 class destroyers unless (1) the prime contractor with whom the United States contracts for the construction of such destroyers is required under the terms of such contract to subcontract to another United States shipyard and (2) the total number of such destroyers set forth under the terms of the prime contract is divided substantially equally between the prime contractor and subcontractor.

Nothing is said about the amount of the subcontract. Nothing is said about whether it will be at the price that the Litton Co. bid. Nothing is said about whether the price shall be raised or whether the price shall remain the same. It requires the present prime contractor to subcontract 15 of the destroyers for which it now has a contract. Obviously

the price at which it could subcontract the destroyers would have to be less than it is receiving, or else the contract cost is going to have to go up millions of dollars.

The Acting Secretary of the Navy, Mr. John W. Warner, in a letter dated August 29, 1970, to the distinguished Senator from Mississippi (Mr. STENNIS), points out that if this contract were split 20–10—that is, 20 retained and 10 going to the Bath Co. or a successful subcontract bidder—it would increase the cost of the contract for the procurement of the 30 destroyers by $225 million. Naturally, if it were split 50–50, the cost would be increased even more.

The Navy Department suggests that if it is desired to spend additional money, some $225 million or more, that it not be spent by splitting the contract, but that it be spent by authorizing additional ships much needed by the Navy.

So any change in the present procurement plan as proposed by the amendment would result in a serious program disruption and essentially nullify most of the benefits of competition and series production.

Mr. President, this amendment, if it is adopted, would leave the Navy on an uncharted sea without a compass. Nothing is said about the cost of the destroyers. The Navy now has a firm contract for the delivery of these destroyers, and the bid of the present holder of the contract was $9 million per destroyer less than the bid of the other company.

So why impair the obligation of the contract? Why break a validly existing, validly executed contract in order to divide it up?

The company that now seeks a part of the contract had every opportunity to bid on it, and did bid on it; and now, being dissatisfied with the result, it comes in and says, "Let us change it; let us require that half of these ships be supplied by others."

Nothing is said about the price. It leaves the Navy without any ships being built—because the amendment says that none of the funds authorized in this act may be expended for the procurement of any of these destroyers unless half of the contract is subcontracted to another company. There is no subcontract existing at this time, so until such a subcontract is entered into, the present contract would have to remain in abeyance under the amendment.

Will the subcontract require the subcontractor to build these 15 destroyers at the amount of the Litton contract? There is nothing said about that. Will it be more or less than the present contract? Are we going to add $225 million to the cost of the contract for the procurement of the 30 destroyers?

Say 15 of them are subcontracted. We all know that a prime contractor gets some sort of compensation when he lets a subcontract. He does not give the full contract price. So it is certainly fair to assume that the prime contractor would add some 10 percent to the amount the subcontractor is to receive, adding more and more to the cost to the U.S. Government—to the American taxpayer, if you please—if this contract should be broken by legislative action.

Mr. President, it occurs to me that a valid contract has been in existence for some time. The Navy gave notice to Congress in 1967 and in subsequent years that this contract was going to be let to one contractor, one shipbuilder. That suited everyone until the Litton Co. came up with the low bid, by $270 million, on the contract. Are we going to toss the contract out the window, disregard it, and impair the obligation of the contract? I do not believe the U.S. Government does business that way. I would be very disappointed if I found that it did.

So, Mr. President, it occurs to me that this amendment is not in the interest of the American taxpayer. It is not in the interest of the Navy. It is not in the interest of the Defense Department in the task of procuring ships with which to provide, or help provide, for the national security.

Mr. President, for that reason I oppose the amendment, and point out that by its very terms, it would leave the status of this contract in a great state of confusion, resulting, very probably, in costly delays, confusion, arguments, and possible litigation, because you just do not, by legislative act, seek to break a contract which has been validly entered into.

So, in the interest of the defense of this country, in the interest of the American taxpayer, and in the interest of our national honor, Mr. President, the amendment should be defeated.

The PRESIDING OFFICER. The Senator's time has expired. Is there further morning business?

THE FAMILY ASSISTANCE PLAN

Mr. GRIFFIN. Mr. President, in a statement issued from the Western White House at San Clemente last Friday, President Nixon made a strong appeal for Senate action in this session on the administration's family assistance plan.

The President accurately described this proposal as "the most important piece of domestic legislation of the past 35 years."

I ask unanimous consent that the President's statement be printed in the RECORD at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT ON FAMILY ASSISTANCE

The most important piece of domestic legislation proposed by this Administration is the Family Assistance Act. It has properly been described as the most important piece of domestic legislation of the past thirty-five years, one of the dozen or half dozen such bills in the Nation's history.

I have emphasized the need for this welfare reform on repeated occasions since this proposal was made one year ago—in a speech to the National Governors' Conference, in a speech before the White House Conference on Hunger, Nutrition and Health, in the State of the Union Message, and in my remarks in St. Louis at the 50th Annual Convention of the Jaycees. Most recently, I have spoken about it privately to several members of the Senate Finance Committee.

I am gravely troubled by the fact that the remaining days of the 91st Congress are fast running out and Congressional action has not been completed on welfare reform. The present legislation is too far advanced, the need for reform is too great, for this to be permitted to happen.

The House of Representatives passed the Family Assistance Act on April 16, but the bill has been delayed by the Senate Finance Committee ever since. We have made numerous proposals for modification in the plan to meet the objections of Committee members. But ultimately the Senate as a whole must be given the chance to work its will on this issue and this bill. I urge this great and conscientious Committee of the Congress to conclude its public hearings and to get down to the hard business of marking up a bill as expeditiously as possible.

The House of Representatives, in its detailed and meticulous examination of the Administration proposal made a number of changes which were clearly improvements, and which have been wholeheartedly accepted by the Administration. The Nation is much in the debt of Congressman Wilbur D. Mills and John W. Byrnes who led this enquiry, and who are the authors of the legislation which passed the House overwhelmingly in April.

There is every reason to think a similar process will take place in the Senate, and every reason to welcome this prospect. Thus it has been proposed that nationwide operation of the Family Assistance Program be preceded by a period during which the program would be field-tested. This testing period would begin January 1, 1971 in a number of areas chosen by the Department of Health, Education, and Welfare. Thereafter the program would go into effect on a nationwide scale on January 1, 1972.

With time running out, and an historical social reform at stake, I have consulted with several co-sponsors of the bill including Senators Hugh Scott, Robert P. Griffin and Wallace F. Bennett, and we have agreed that if the Senate accepts this modifying amendment it will be acceptable to the Administration.

The Nation needs this legislation. The House of Representatives has acted. The Senate now must act. I have every confidence that it will.

Mr. GRIFFIN. As one of the sponsors of this legislation, I am pleased that the President has indicated his willingness to accept a suggestion that the plan be tested in a pilot basis for a year before it would go into effect nationwide on January 1, 1972.

I am confident that the members of the Senate Finance Committee, who have worked long and diligently on this proposal, will do all they can to see that this administration proposal, with such modifications as they deem appropriate, will be reported out in time for consideration during this session of the Congress.

Mr. President, I wish to commend the distinguished majority leader (Mr. MANSFIELD) for his clear statement, made over the weekend, that he wants to see that the family assistance plan considered before this session adjourns.

Finally, Mr. President, I ask unanimous consent that a statement by the distinguished Republican leader (Mr. SCOTT) concerning the family assistance plan, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR SCOTT

As the principal sponsor in the Senate of the Family Assistance Plan, I applaud the President's reaffirmation of support of the program including a testing period.

I think it is important that this plan become operative and even to start a testing period next year, after enactment, will be of great help.

I would hope that the Senate Finance Committee would report as soon as possible a bill to the floor so that it may be considered and passed before adjournment.

This is a most meaningful Welfare Reform Program advanced by this Administration, and I believe in the interest of all our people, it should be speedily enacted.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The Senate continued with the consideration of the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Mr. STEVENS. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the Act, insert the following: "SEC. . No modifications or changes in the command structure of the United States Armed Forces shall be made until the Senate Committee on Armed Services and the House Committee on Armed Services of the Ninety-second Congress shall have had 60 days to examine the document known as the Fitzhugh report."

Mr. STEVENS. Mr. President, this amendment is quite similar to my amendment No. 847, which provided 90 days for the Armed Services Committee to examine the Fitzhugh report. There has been some indication that the Pentagon will not act precipitously in implementing the recommended changes in the command structure of the Armed Forces, but I feel very strongly that it is a matter that should be reviewed. We all know that we are coming down to the end of this session.

The only thing this amendment would do is prohibit a premature change in the command structure of the Armed Forces, following the Fitzhugh report, until the standing committees of the House of Representatives and the Senate have had an opportunity to review it. It will not in any way prohibit implementing those decisions if, after that review, the appropriate Committees of Congress see fit not to make any recommendations; but there are sweeping recommendations in it that would effectively downgrade the Joint Chiefs of Staff, eliminate the Alaska Command and the Southern Command, and create three new Deputy Secretaries of Defense with broad and sweeping powers; and it seems to me that the action recommended by the Fitzhugh report is the type of action that the standing committees of Congress should review.

I do not serve on either of those committees, but I would like to make certain that the administration's actions would be delayed until they are properly reviewed by the two committees.

Mr. STENNIS. Mr. President, in response to the statement of the Senator from Alaska, he mentioned this matter to me some 2 weeks ago, and had his amendment ready at that time. I had not had a chance to look into the Fitzhugh report at all at that time with reference to this command matter, and actually I have not looked into it yet, because of the pressure of time. I have learned, however, that it is a broad enough subject that it is going to require a great deal of study by the committees, by the services, by the Defense Department, and it should. It is a far-reaching matter. I certainly would not commit myself one way or another. It may be that something needs to be done. I have an open mind with respect to it. At the same time, I can understand the Senator's concern about the Alaska Command. I know of his manifestation of interest, and I am glad to take his amendment to conference, with the understanding that this matter will be explored further and we will consult with the conferees and the committee of conference and see what further can be done about the matter.

I am glad that the Senator has brought up his amendment, and I am glad to recommend that it be agreed to as a part of the bill.

The PRESIDING OFFICER. Does the Chair correctly understand that the Senator from Mississippi accepts the amendment?

Mr. STENNIS. That is correct.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article published in the Anchorage Daily Times of August 21, relating to the Fitzhugh plan.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAIRD EXPECTED TO DISREGARD FITZHUGH PLAN

(By Mary C. Berry)

WASHINGTON.—A presidential panel's recommendations for a sweeping reorganization of the Pentagon—including abolition of the Alaskan Command—are not likely to be implemented.

At least that is the implication of a speech made Thursday by the Pentagon's number two man, Deputy Secretary Vance Packard.

Packard was talking specifically about a proposal put forward by the panel's report—the Fitzhugh Report—that the Defense Department should be reorganized with three deputy secretaries, one of whom would be directly in charge of command operations. The report is named after the chairman of the panel, Gilbert Fitzhugh.

Speaking in Los Angeles, Packard said Defense Secretary Melvin Laird wasn't likely to implement this change any time soon.

"We don't want to create a structure that adds more top-involvement," he said. "Three deputies would tend to pull even more decision-making up to the top and we don't want to move in that direction."

Robert C. Jackson, another panel member, held a similar dissenting opinion in a proposal published with the Fitzhugh report last July 1.

"Two separate joint staffs at the national level would create a highly unsatisfactory situation," Jackson wrote in that opinion. "I believe it would be chaotic to set up another large military staff in Washington to parallel the work now done by the Joint Chiefs of Staff.

Jackson was also referring to the most controversial part of the Fitzhugh report—the recommendation that the Joint Chiefs be removed from day-to-day military operations. Thursday night in Los Angeles, Packard said this idea was still under review but added that if it is done at all it will be done "on a step by step basis".

For obvious reasons, the military objects strenuously to what they consider a "downgrading" of the Joint Chiefs.

All this is directly related to the future of the Alaskan Command (Alcom).

The proposal to abolish as such and give its functions to the Pacific Command is part of the broader plan to create three deputy secretaries of defense with broad but specific powers. One would be in charge of defense operations and would take over responsibilities in this area now belonging to the Joint Chiefs of Staff. The reorganized commands, including the merged Alaskan-Pacific Command, would be under his jurisdiction.

Jackson also objected to changes in the organization of the commands, particularly changes in the area commands, of which Alcom is one. The present area commands were formed after mature consideration. "They work well in practice," he wrote, "and there is no revolutionary change in the art of warfare that requires them to be altered in a radical way."

Whether any of the Fitzhugh Report's recommendations are implemented is up to the Defense Department and Laird shows few inclinations to make these changes. Although congressional approval might be required for some things, the 1958 Defense Department Reorganization Act gives the secretary broad powers to do much of the reorganization himself.

It looks very much as though the Fitzhugh report will join Washington's library of similar recommendations, all made in good faith and urgency, but never heeded.

The PRESIDING OFFICER. Is all time on the amendment yielded back?

Mr. STENNIS. I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

THE MUSKIE AMENDMENT

Mr. STENNIS. Mr. President, if there are no other amendments, I should like to address the Senate briefly on a matter which will be pending tomorrow.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I have reference to the amendment offered by the Senator from Maine (Mr. MUSKIE) that in effect seeks to set aside a contract that has been awarded already with reference to the destroyers.

A great deal has been said about preserving the mobilization assets of our Nation in case of further need or in case of an emergency.

Mr. President, it occurs to me that in this particular contract, after all, the main mobilization background and qualities involved concern the massive material that will be used in these destroyers and the subcontracts that the prime contractor will make all over this Nation for this material. That would involve the labor that goes into it, the capacity to make the proper motors, and so forth. The greatest part of the mobilization in this contract is in the 45 States that will supply the material and the labor for the material and the fixings, the units that go into these destroyers. Those contracts will go out over 45 of the 50 States and will constitute 60 percent of the amount spent for the cost of these destroyers. It will involve a massive number of factories and industrial plants, with skilled and unskilled people and every other kind of ability that goes into the making of these products, some of which require highly skilled people, and all the complications of electronics and modern weapons and modern output of all kinds. That is the great mobilization base.

If the contract had gone to Bath, Bath would have been largely an assembly plant for putting together this 60 percent of the cost that is spread out all over this Nation. If it goes to Litton-Ingalls at Pascagoula, that will be the assembly plant that will put the pieces together, gathered from all over this Nation.

The putting together, the assembly plant, is not a complicated matter with reference to a destroyer. Modern as they may be, the modernity parts will be made throughout the length and breadth of our Nation. So for this kind of ship, I do not want Senators to get the idea that everything is made there and that no other area is involved.

Time will be quite brief in the morning, but I have a list of the shipyards—I do not have the list at hand at this time—that would be capable of making destroyers should this country need them on very reasonable notice.

Something has been said about the 20 additional destroyers above this amount. I think that is way in the future somewhere. However that may be, that would be a different type of destroyer, a different design destroyer, and Pascagoula would not have any running start to run away with that contract, should it materialize. My opinion is that it would be a long time before the Navy got the allocation of enough money through future budgets, future budget years, looking ahead, to build any additional destroyers in any large number such as 20 to follow this 30. The reason they are getting 30 now is that, because of the long delay, year after year, the Navy has had to put off a real chance to modernize their destroyer fleet. They have a hard time getting the money now, but the submarine threat from other sources, both the fighter attack submarines and those of the Polaris-type that the Soviets have launched into in such a strong way in the last few years, made this priority go up. That is why we have a contract now.

This has been an orderly process; it is an orderly contract. There is not a thing in the world unusual about this, except one thing: The Navy laid down these ground rules to start with. They were going to try to get more for their money. They were going to try to go over to a more modern shipyard concept. It is just commonsense that with a larger package, you get a better price. I recall that when I was a small boy we got two bananas for a nickel, but we got five for a dime. That economic principle is still true, and the Navy tried this out and it worked.

They got a good price for the destroyers. The GAO went over the figures very carefully. The charges were made that this was a buy-in. Their report does not sustain the allegation. Nowhere did the GAO conclude that it was a buy-in or that any of the figures of Ingalls were unsound. In a former speech I made, there is an analysis of the difference in price of $9 million per ship, and that the profits were small. Another point was on the estimate of their ability to get the material for a certain price, which the Navy checked into. The GAO auditors went into that, and they did not condemn it.

To be brief, they found no indictment, and no fault to lie at the foot of Ingalls. The low bid was found to be reasonable.

They said something about taking a chance. Well, where is there anything that a businessman does not have to take a chance on in the Government's buying of its products? Where is the case where everything is certain? Of course, there is no such thing.

Now, Mr. President, a great drive is going around here by other competitors who say in effect, "Well, we want our Senators to get us in and give us a chance to get at that contract."

I have not heard any of them saying they will do it for a smaller amount, much less a lesser amount than Ingalls. No one makes a proposition of that kind, that they will give the Government a better price.

Bath is one of the finest quality organizations in the Nation. We already know that it will not give a better price, or did not at least. They had the chance. Their bid was $9 million more per ship. There were three others in the running, and under the flair rules laid down by the Navy, they dropped out before they got down to the end.

Mr. President, if we are going to do business in that way, the Federal Government, as much material and as many weapons and so forth, it has to buy—planes, ships, tanks, everything else—so complicated and expensive—if it is going to make offers of good faith and say to the industrial units that come in here, "We will let contracts under the ground rules. Here they are. Everyone is bound by them." That is what happened here. They worked on it. They bid on it. Finally, there was a race to the wire. The last two competitors in the end, one was $9 million per ship under. That is about it. If it turns out to be for 30 ships, that will be $270 million—more than a quarter of a billion dollars.

This matter has come up about a single yard many times. It has been considered by two Secretaries of Defense, two Secretaries of the Navy, and a great host of naval officers. It has also been considered by Mr. Packard, one of the able industrial leaders in this Nation. I know it was considered, because he told me so himself. It was always their conclusion that this was a better course to follow in this particular case. We knew about that. We passed on it directly in Congress last year.

If we are going to come in now and let the ones that bid second get the contract set aside, or we have to give them half, where will that leave the Government with reference to making other purchases?

I know where it will leave the Senators. Every Senator will be having the experience in the course of the next few months where—I will not say a disgruntled contractor but I will say a disappointed contractor will say, "We want another chance. We want our Senator to get that contract set aside and get it altered. We bid for it, and we did not get it, but still we want half anyway."

Mr. President, let us not be fooled. That is what it will lead to. The shipbuilders, the planebuilders, and all the other builders who think they can set aside contracts with immunity when they need to get a contract and are not successful, they will all be in here. We just cannot afford to get into the legislative business of rewriting contracts that we have already committed the executive branch to carry out according to its best judgment and ability.

Mr. President, that is all I have to say at this time. I am sorry to have taken the time of the Senate at this point, but there is such a limited time available in the morning with only 30 minutes to a side, that I wanted to sum up now some of the high points of this matter.

I thank the Chair and I yield the floor.

S. 4309—INTRODUCTION OF A BILL TO AMEND THE IMMIGRATION AND NATIONALITY ACT

Mr. HRUSKA. Mr. President, I introduce, for appropriate reference, a bill to amend the Immigration and Naturalization Act. It is introduced at the request of the Attorney General and Department of Justice, on their own behalf and that of the Secretary of State. I ask that it be appropriately referred.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, the bill will be received and appropriately referred.

The bill (S. 4309) to amend the Immigration and Nationality Act, and for other purposes, introduced by Mr. HRUSKA, by request, was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, this bill is introduced so that it may serve as a vehicle for the consideration of much needed changes in some portions of the present immigration laws of this country; particularly as they effect the Western Hemisphere. Although I have great faith in the drafters of this bill and am confident that much of the material included in the bill has great merit, I do not endorse the bill section-by-section at this time as it is a most complicated matter.

It will require expert examination and a good deal of study before we can determine in what form and detail it should be adopted. It is my hope that this draft will serve as a springboard for a comprehensive study of our entire immigration procedures.

America has been, since its beginnings, a nation which opened its arms to the people of other lands. Immigrants have traveled to our borders for many different purposes, but with one common goal: to find a better life.

The past decade has produced tremendous change in America, as in other nations. However in spite of allegations to the contrary by some who dwell within our borders, the United States is still regarded by people all over the world as a nation which can indeed provide a better life. Because of this steady influx, we found it necessary in 1952 to set up comprehensive rules on immigration which were intended to strike a balance between the needs of this country and those of foreigners who wish to come to America. In 1965, the Congress extensively revised these preferences and exemptions which modify the established quota limitations applicable to the Eastern Hemisphere. At the same time, the Congress provided for the first time a limitation on immigration from the Western Hemisphere—one which contained no system of preferences as we have for the Eastern Hemisphere.

Mr. President, since July 1, 1968—when the Western Hemisphere limitation became effective—it has become increasingly evident that further reforms of the Immigration and Nationality Act are necessary, with particular regard to the Western Hemisphere.

The bill I am introducing today was transmitted by the Department of State with the concurrence of the Department of Justice, and is designed to alleviate many of the difficulties and inequities which now exist in the field of immigration and naturalization.

This is a comprehensive bill, the product of extensive experience and study. It would, among other things, apply the identical preference provisions to Eastern and Western Hemisphere quotas, thereby creating a worldwide system compatible with the principles of family unity and national need inherent in our immigration laws. As a further refinement, however, this proposal recognizes the special relationship we have traditionally enjoyed with our contiguous countries, and creates a special allotment of 35,000 visas each to Canada and Mexico. These numbers would exist outside of any numerical restriction applicable to any other country, and outside the preference system as well.

The bill would accomplish further reforms. For example, with regard to refugees. Presently, the seventh preference, which provides for refugee admission, applies only to the Eastern Hemisphere, and in an amount no more than 6 percent of the total hemisphere limitation. Under the proposal, the seventh preference would apply to both hemispheres in an increased amount of 10 percent of the established hemisphere limitations. This increase is in recognition of the fact that these troubled times resulted in an exhaustion of our refugee allocations in fiscal 1969 and 1970 well before the end of those years. We must not disappoint the persecuted and homeless whose sole hope is America.

Mr. President, this measure would make many other changes in the law too numerous to mention at this time. A summary of its major provisions includes:

First. Continues present 170,000 numerical limitation for Eastern Hemisphere and establishes numerical limitation of 80,000 or Western Hemisphere exclusive of Canada and Mexico.

Second. Provides separate annual allocations of 35,000 each to Canada and Mexico.

Third. Applies identical preference provisions to Eastern and Western Hemisphere quotas.

Fourth. Makes various modifications in preference classes and allocations within established quotas. Of particular interest is the grant of second preference status to parents of permanent resident aliens, and limitation of the fifth preference to unmarried brothers and sisters of U.S. citizens.

Fifth. Increases the maximum allocation for dependent areas from 200 to 600, and specifies that this limitation will be applied to the hemisphere in which the dependency is located. A special proposal would authorize the grant of permanent resident status to all West Indian workers now in the Virgin Islands in temporary status.

Sixth. In regard to refugees, the bill authorizes increase of the seventh preference allocation in each hemisphere to 10 percent. However, it does not modify the general parole authority now set forth in the statute and does not disturb the existing arrangements for the reception of Cuban refugees.

Seventh. Conditions the admission of H–2 temporary workers upon a certification from the Department of Labor. This proposal would transfer final authority to determine the labor acceptability of such temporary workers from the Department of Justice to the Department of Labor.

Eighth. Provides for waiver of nonimmigrant visas for certain 90-day visitors in order to encourage tourism.

Ninth. Provides discretionary waiver of inadmissibility for rehabilitated criminals, prostitutes, and visa misrepresenters with no close relatives in the United States upon their showing 10 years of good behavior.

Tenth. Restores adjustment of status for Western Hemisphere aliens except natives of contiguous countries and adjacent islands who are not immediate relatives.

Eleventh. Eliminates quota charge upon the grant of adjustment of status to Cuban refugees.

Twelfth. Proposes a number of changes urged by the Immigration and Naturalization Service to aid its enforcement responsibilities, including the following:

First, new criminal penalty for knowingly employing aliens in the United States in violation of law;

Second, new criminal penalty for remaining in the United States after illegal entry;

Third, new criminal penalty for acceptance of unauthorized employment in the United States by a nonimmigrant;

Fourth, amendment in the statute dealing with judicial review of deportation orders in order to minimize frivolous challenges; and

Fifth, clarification of statute dealing with waiver of deportability for aliens with close relatives in the United States who entered this country through fraud by specifying that the waiver is discretionary and that it does not apply to independent grounds of inadmissibility.

Thirteenth. Proposes a number of changes in the nationality laws in order to eliminate inequities and ambiguities.

It is a measure deserving of thoughtful and immediate consideration, and the administration is to be commended for the effort which has gone into its preparation. In justice to those who would seek to enter our borders and contribute to America's life force, I urge that this proposal receive early consideration.

Again let me say that I introduce this bill in the hope that the Judiciary Committee will examine all of its provisions in light of its expertise in these matters to see what portions of the bill should be adopted and what other changes in our immigration laws are needed and would be beneficial. The text of the bill is long so I do not ask that it be printed in the RECORD, but I do ask unanimous consent that a section-by-section analysis provided by the Department of State be printed in the RECORD at the conclusion of my remarks.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF ADMINISTRATION OMNIBUS IMMIGRATION AND NATIONALITY BILL

Section 1 contains the short title of the bill.

Section 2 amends the table of contents.

Section 3 amends section 101(a)(13) to redefine "entry" by specifying that a person who obtains an adjustment of status will be regarded as having made an entry for the purposes of the immigration laws. This would place such a person in parity of status with one who enters through a port of entry. At present, the statute discriminates irrationally in favor of a person who improperly obtains adjustment of status, not subjecting him to deportation for his illegal action and relieving him from proceedings for rescission of his improper adjustment after the lapse of 5 years. The proposed amendment would treat both classes of immigrants alike, subjecting them to like consequences and time limitations (if any), and granting them identical benefits, when benefits are available.

Sections 4 (a) and *(c)* amend section 101(a)(15)(E) and (I) in identical fashion to provide derivative nonimmigrant status for "members of the immediate family" of treaty traders and investors and of information media representatives, rather than only for the spouses and children. This would enable dependent relatives (parents, unmarried daughters, etc.) of such nonimmigrants who normally are members of the household to receive the same nonimmigrant treatment accorded to the principal alien.

Section 4(b) amends section 101(a)(15)(F) to confer upon the Secretary of Health, Education, and Welfare the responsibility for approval of school to be attended by nonimmigrant students. In addition, the amendment would eliminate the reference to "approved" schools. Presently some schools use

the phrase "Approved by the Attorney General of the United States" as part of their advertising. This gives a connotation that the Attorney General approves the school in all aspects. The amended statute retains for the Attorney General a measure of supervision, in authorizing him to prohibit the entry of students coming to schools which fail to furnish required reports of termination of attendance.

Section 5(a) amends subparagraph (A) of section 101(a)(27) to delete the present definition entirely and to substitute a definition including only aliens born in contiguous territory (Canada and Mexico), their spouses and children. Two provisos are included: (a) to limit to 35,000 the number of immigrant visas which may be issued to natives of any single contiguous foreign state in any fiscal year, exclusive of immediate relatives and other special immigrants; and (b) to provide that an alien described therein cannot be deemed to be qualified for such classification until he has obtained a labor certification if he seeks to enter the United States to perform skilled or unskilled labor. This amendment to establish a separate numerical limitation of 35,000 on immigration from each of our two neighboring countries is in recognition of the special relationship which exists between us.

Section 5(b) amends subparagraph (D) to provide special immigrant status for religious functionaries as well as for ministers of religion. This amendment would make possible the admission as immigrants without numerical limitation of other religious workers as well as ministers of religion.

Section 5(c) amends subparagraph (E) to delete the requirement that the approval by the Secretary of State of special immigrant status under this subparagraph be upon a finding that "exceptional circumstances" exist in the case of the applicant concerned.

Section 6 amends section 101(b)(1)(E) to amend the definition of "child" to include adopted children who have been in the legal custody of, and have resided with, the adoptive parent or parents for a period of one year rather than the present two years. The proposed amendment would also permit peirods of residence prior to the issuance of the adoption decree to be counted. Since the purpose of the period of residence is to insure that a stable family relationship has been established it is not considered to be significant when that period of residence occurred.

Section 7 amends Section 106 of the Immigration and Nationality Act, 8 U.S.C. 1105A. As enacted in 1961, Section 106 sought to minimize dilatory, repetitious challenges to deportation orders by providing a single, unitary review proceeding in the United States Court of Appeals. Experience has demonstrated that this alm has not yet been fully achieved. Frivolous and repetitious litigation is still being brought, obstructing the administrative process and overburdening the courts. In part, this development is attributable to ambiguities in the statutory language, which have led some courts to suggest the need for clarifying amendments. In part, it is attributable to the statute's provision for an automatic stay of deportation upon the filing of a petition for review, no matter how frivolous or repetitious it may be.

The amendments would clarify the statute and would limit the possibilities for dilatory use of the automatic stay of deportation. They would specify that the statute's unitary review proceedings would include review of determinations ancillary to the deportation edict, and would eliminate automatic stays of deportation, and resultant unjustified delays, for aliens who bring repetitious review proceedings.

Section 8 amends section 201(a) to establish a separate numerical limitation of 80,000 per annum and 22,000 quarterly for the Western Hemisphere, other than Canada and Mexico for which a specific limitation is set forth in section 5. The dependent areas physically located within the Western Hemisphere would be included within this overall ceiling. Together with the amendments in sections 9 and 10, this amendment places all countries of the Western Hemisphere (other than Canada and Mexico) under a system identical to that now applicable to the Eastern Hemisphere.

Section 201(b) is also amended to provide "immediate relative" status derivatively for the spouse or child of any alien entitled to immediate relative classification, whether or not such spouse or child may also be entitled in his own right to such status.

Section 9 amends section 202 in the following ways—

(a) a separate annual ceiling of 600 is established for each dependent area and this ceiling is charged against the overall limitation for the hemisphere in which the dependent area is located rather than against the 20,000 foreign state limitation of the governing country. These changes would relieve serious backlogs of immigration demand in certain dependent areas of the world where, in many cases, the present ceiling of 200 is insufficient even to provide for immigration by spouses and children of resident aliens. They would at the same time avoid having this increased demand preempt the foreign state limitation of the governing country, especially that of Great Britain to which the immigration from the vast majority of the dependent areas is chargeable at present.

(b) the provisions relating to alternate foreign state chargeability for a spouse or child following to join the principal alien, as well as one accompanying such an alien. This change will prevent problems which can arise under present law when a spouse and child are unable, for valid reasons, to accompany the principal, only to find they face long delays in following to join him because of unfavorable foreign state chargeability.

Section 10 amends section 203 in the following ways—

(a) the percentage reserved for the first preference categroy is reduced from 20% to 10%;

(b) the definition of aliens entitled to second preference classification is expanded to include the parents of a permanent resident alien if the permanent resident is at least twenty-one years of age;

(c) the percentage reserved for the third preference category is increased from 10% to 15% and provision is made for the visa numbers unused by higher preferences to "fall down" to third preference;

(d) the percentage reserved for the fifth preference category is reduced from 24% to 20% and the class of aliens entitled to fifth preference classification is restricted to the unmarried brothers and sisters of United States citizens;

(e) the percentage reserved for the sixth preference category is increased from 10% to 15% and provision is made for visa numbers unused by higher preferences to "fall down" to sixth preference;

(f) the percentage reserved for seventh preference refugees is increased from 6% to 10%;

(g) the definition of "refugee" is amended to add a requirement that an alien not be firmly resettled in any country in order to qualify for refugee status under section 203(a)(7).

These amendments adjust the preference system to make more visa numbers available to professionals, needed workers and refugees. Very heavy backlogs have developed in the third and sixth preference categories and the amount of visa numbers available for refugees have proven inadequate to meet the legitimate demand in that category. These revisions of the percentages allocated to the various preferences will provide a more realistic distribution in terms of the demand for immigration by relatives and by aliens having skills this country needs.

The enlargement of the second preference category to include the parents of an adult permanent resident recognizes the hardship that can be imposed if the adult son or daughter cannot confer preferential status on his parents until after he has qualified for citizenship.

The restriction of the fifth preference category to unmarried brothers and sisters retains preferential treatment when the ties remain close while taking into account the fact that a person who marries transfers his primary loyalty from his other relatives to his spouse and children.

Section 11 amends section 204 to require the filing and approval of a petition to accord special immigrant status to a religious functionary under section 101(a)(27)(D), and to require, as a prerequisite to the approval of a third or sixth preference petition, a certification pursuant to section 212(a)(14) instead of "consultation with appropriate government agencies."

Section 12(a) amends section 211(a) to delete the references therein to the transition period from December 1965 to July 1, 1968.

Section 12(b) restores discretionary authority to waive innocent defects in visas presented by entrant aliens. Subsection (c) of section 211 of the Immigration and Nationality Act was repealed by section 9 of the Act of October 3, 1965. Since the effective date of the latter act no relief has been available to an alien who innocently was not entitled to the classification shown in his visa at the time of his admission. The experience under former section 211(c) and its predecessor, section 13(d) of the Immigration Act of 1924, emphasizes the need for discretionary authority to deal with the cases of worthy immigrants in a humanitarian manner. The amendment would in effect restore subsection (c), and would authorize the Attorney General to grant relief where an entry is defective for technical reasons.

Section 13(a) amends section 212(a)(14) to add nonimmigrants under section 101(a)(15)(H)(ii) to those classes of aliens to whom the section is applicable and to provide that the exemption from the provisions accorded to certain special immigrants under section 101(a)(27)(A) shall be available to the parents of a permanent resident only if the permanent resident is at least twenty-one years of age. The present reference to exemption on the basis of a specified relationship to a United States citizen has been deleted, inasmuch as such relatives are eligible for "immediate relative" status and are thereby excluded automatically from the provisions of section 212(a)(14).

Section 13(b) repeals section 212(a)(24) relating to ineligibility of an alien applying from contiguous territory or adjacent islands if the alien arrived in such place within two years preceding the application on a nonsignatory transportation company. This provision is considered to be obsolescent.

Section 14 amends section 212(d) by—

(a) making an editorial change in paragraph (4) and by deleting the word "unforeseen" therefrom; and

(b) by adding to the section a new subsection (9) to provide that certain grounds of ineligibility specified in section 212(a) shall be inapplicable to aliens seeking admission as nonimmigrant visitors for business or pleasure for periods not exceeding ninety days and who are nationals of countries designated by the Secretary of State on a basis of reciprocity or a finding that the designation would be in the national interest. The grounds of ineligibility which would be made inapplicable include that relating to

the nonimmigrant visa requirement, waiving, in effect, the visa requirement for aliens who fall within the purview of the provision. The subsection provides that aliens admitted pursuant to it may not have their stay extended beyond ninety days from date of admission, may not change to any other nonimmigrant category, and may not have their status adjusted to that of permanent resident under section 244 or 245. In addition, provision is made for placing an applicant for an immigrant visa further down on the appropriate waiting list if he had previously been admitted under this provision and had violated the terms of his admission by overstaying, accepting employment or otherwise.

Section 15(a) amends section 212(g) to add aliens afflicted with psychopathic personality or a mental defect to those aliens who may benefit from the relief provided in the section if a qualifying relationship exists between the ineligible alien and a citizen of the United States, a permanent resident alien, or an alien to whom an immigrant visa has been issued.

Section 15(b) amends section 212(h) to incorporate the provisions of present section 212(i) relating to ineligibility under section 212(a)(19) and revises the relationships which will qualify an ineligible alien for the relief to match identically those contained in section 212(g).

Section 15(c) amends section 212(i) to add a "statute of limitations" on the operation of certain grounds of ineligibility by authorizing the Attorney General, in his discretion, to waive ineligibilty under sections 212(a)(9), (10), (12), or (19) in the case of an alien if (1) the act or acts giving rise to the ground of ineligibility were committed more than ten years prior to the date of application for a visa; (2) if any conviction in a court of law resulting from the commission of the act or acts occurred more than ten years prior to the date of application for a visa; (3) if any period of confinement resulting from such a conviction terminated more than ten years prior to the date of application for a visa; and (4) during the ten year period immediately preceding the date of application for a visa there was a clear record of the alien's rehabilitation.

Section 16 amends section 221(a) editorially to change the word "quota" to "foreign state limitation", where appearing. It also amends section 221(b) to authorize the Secretary of State and the Attorney General to waive, in their discretion, the fingerprint and photograph requirement in the case of a nonimmigrant alien. Section 221(c) is amended to require reciprocity in the setting of nonimmigrant visa validity, if practicable, rather than "to the extent practicable," and by removing the requirement that an alien to whom a replace immigrant visa is issued pay again the issuance and application fees.

Section 17 amends section 223(b) to extend the period of validity of reentry permits to three years, removing the provision for renewal. The present statute makes a reentry permit valid for one year, and authorizes a one year renewal. The proposed change would amply meet existing needs, and would materially conserve manpower and funds in eliminating the need to deal with thousands of applications for extension of reentry permits.

Section 18 amends section 238 by—

(a) repealing section 238(a) which is related to section 212(a)(24), also being repealed as obsolescent;

(b) by redesignating subsections 238(b) through (e) as (a) through (d);

(c) by amending subsection (d), redesignated (c), to authorize the Attorney General to contract with private carriers for the departure of aliens admitted under section 212(d)(9) (see Section 14 of this bill); and

(d) by making technical amendments to the definition of "transportation line" contained in section 238(e), redesignated (d).

Section 19(a) amends section 241(a) to remove from the grounds of deportability enumerated therein paragraph (10) relating to deportability for entry in violation of the conditions of section 238(a) which is repealed by section 18(a) of this bill.

Section 19(b) amends section 241(c) to provide that an alien's visa could be considered to have been obtained by fraud or willful misrepresentation within the meaning of section 212(a)(19) if the marriage to the citizen fiance or fiancee of an alien admitted under section 101(a)(15)(K) were terminated within two years.

Section 19(c) amends section 241(f) to eliminate inherent ambiguities and administrative difficulties in the statutory provisions for waiver of deportability for misrepresentations in connection with entry.

Generally speaking, section 241(f) of the Act, as judicially interpreted, exempts an alien with specified close family ties from deportation on the ground that he gained entry with a fraudulent visa, and on grounds relating to documents or numerical limitations. In its original conception, as applied by the Departments of State and Justice, this Act had a limited purpose, and merely excused from deportability based solely on misrepresentations, where an alien had close relatives in the United States. In *Immigration and Naturalization Service* v. *Errico*, 385 U.S. 214 (1966), the Supreme Court interpreted the statute very broadly. The scope of this decision, and the extent to which it sanctions waivers of deportation, are unclear, and this uncertainty has bred considerable litigation. The proposed amendments would clarify the statute and eliminate the undesirable consequences of the *Errico* decision.

The proposed amendments would accomplish the following major results:—(1) would specify that deportability can be waived for a person who entered through fraud only if he is not deportable on an additional ground other than those based on the misrepresentation itself, e.g., if he is in the immoral, subversive or criminal classes; (2) would make the waiver of deportation discretionary, and thus would make possible the denial of the relief in an undeserving case; (3) would specify that relief under this section is available only to those who enter as immigrants, thus making its benefits unavailable to those who enter surreptitiously, or on a false claim to be U.S. citizens, or as nonimmigrants; (4) would specify that an alien whose deportability is waived shall be regarded as lawfully admitted for permanent residence.

Section 20 amends section 244(d) to remove the requirement that a nonpreference visa number be deducted from the applicable numerical limitation in connection with the suspension of deportation of an alien under the provisions of section 244. The deletion of this requirement would not significantly increase the number of aliens admitted for permanent residence and would avoid noncompliance with the law in cases in which aliens are chargeable to a foreign state limitation under which nonpreference visa numbers are not available.

In addition section 244(f) is technically amended to bring it into conformity with the amended provisions of section 212(e) relating to the imposition of the two-year foreign residence requirement upon former exchange visitors.

Section 21 amends section 245(c) to restrict the prohibition against applying for adjustment of status in the United States to aliens born in contiguous territory or adjacent islands. The amended section would include two exceptions to the general prohibition in that aliens born in contiguous territory or adjacent islands would nonetheless be entitled to apply for adjustment of status if they were—

(1) classifiable as immediate relatives; or

(2) the child of parents, both of whom were entitled to apply for adjustment of their status.

Section 22 repeals section 246 of the Act, 8. U.S.C. 1256, which deals with rescission of adjustment of status. The provisions for rescission of adjustment of status will unnecessary in the light of the amendment of the definition of "entry" in Section 3, under which an improper adjustment of status will be subject to the same consequences as an improper entry.

Section 23 amends section 248 to provide that an alien in the United States as an "exchange visitor" under section 101(a)(15)(J) would be entitled to change to another nonimmigrant status without restriction unless he were subject to the two-year foreign residence requirement of section 212(e) as recently amended.

Section 24 amends section 251(d) to increase from $10 to $500 the fine for failure to report to the Service the illegal landing of an alien crewman. The amendment of section 251(d) is prompted by the belief that some carriers might be tempted not to report an illegal landing which would lead to a $1,000 penalty under section 254(d). Because of organizational changes in the Bureau of Customs, the term "district director of customs" is substituted for the term "collector of customs."

Section 25 amends section 254(a) to provide that the penalty for failure to detain an alien crewman on board until inspected, or a failure to detain an alien crewman on board after inspection when no landing permit or parole has been authorized, or failure to deport an alien crewman when required to do so, be increased to $2,000 from $1,000. The purpose of that increase is to induce carriers to exercise greater precautions to prevent unauthorized landing of crewmen. Mitigation to not less than $1,000 would be permitted.

Section 26 amends section 274 to impose criminal sanctions on those who knowingly employ aliens who are illegally in the United States or in an immigration status in which such employment is not authorized. Failure of the employer to inquire whether the prospective employee is an alien or a citizen, and to request production of an alien registration card by an alien is prima facie evidence of the defendant's knowledge that the alien was in the United States in violation of law. In the interest of effective and efficient administration of the law, the penalty for this offense is made a "minor offense" within the meaning of Section 302(f) of the Federal Magistrates Act (82 Stat. 1107–1119), so as to make the offense triable before federal magistrates, facilities prosecutions, and not unnecessarily encumber already overcrowded federal court dockets. The amendment would also repeal the proviso in which states that mere employment of aliens shall not be deemed to constitute unlawful harboring of such aliens.

Section 27 amends section 275 to provide for a penalty for attempted illegal entries, not provided in the present statute, as well as a penalty for wilfully remaining in the United States after an entry in violation of law and the violator may be prosecuted whenever encountered or located. Violations of this section, which relates to unlawful entries, will be misdemeanors, and could be tried before federal magistrates. More serious offenses now classified as felonies, which are detected at time of attempted entry, i.e., 18 U.S.C. 1546 (falsification or misuse of entry documents), could, when deemed appropriate, be handled as a violation of this amended section and tried before a federal magistrate as a misdemeanor. The added provision for this minor offense would often be more in keeping with the nature of the offense, would facilitate prosecutions and

would alleviate excessive burdens on the courts.

Section 28 adds new section 278A to prescribe a new criminal offense for the acceptance of employment by a nonimmigrant during the period of his authorized stay or within one year thereafter.

Section 29 amends section 287 by adding a new subsection (d) to specifically authorize immigration officers to carry firearms. Such authority has been exercised for many years as a necessary consequence of the law enforcement activities of such officers. However, in the absence of explicit statutory authorization, this authority may be open to challenge.

Section 30 amends section 301(a) to simplify the conditions for acquisition of United States citizenship by children born abroad to U.S. citizens by making uniform the conditions precedent for acquisition of U.S. citizenship by the child, whether the child has one or two citizen parents at that time. In both situations, one year of prior continuous physical presence in the United States of one citizen parent will be sufficient.

Section 31 amends section 301(b) with regard to retention of U.S. citizenship. Where a child acquires U.S. citizenship at birth abroad to a single citizen parent the condition subsequent for retention of such citizenship is made more lenient, by requiring that the child be physically present in the United States for an aggregate period of two years between the ages of 18 and 23, and by providing that the retention provisions become inapplicable upon the timely naturalization of the alien parent.

Section 32 amends section 301(c) to apply the same liberalized condition subsequent for retention of U.S. citizenship to children born abroad to a single U.S. citizen parent subsequent to May 24, 1934.

Section 33 amends section 316(a) to liberalize the residence requirements for naturalization by providing that a petitioner who has been physically present in the U.S. for 3 years of the 6 year period prior to naturalization can qualify.

Section 34 amends section 316(b) to liberalize the permissible absences from the United States during the prescribed period of qualifying residence by extending the statute's benefits to aliens employed by recognized philanthropic organizations and to owners or partners of business concerns.

Section 35 amends section 316(c) to liberalize the requirement of one year's continuous physical presence in the United States prerequisite to obtaining approval of an extended absence from the U.S. by a naturalization applicant, by permitting absence aggregating 60 days during such one year period.

Section 36 adds a new subsection (d) to section 316 to extend eligibility for approved absences from the United States by naturalization applicants to the spouses and children of aliens to whom such approval is granted, and makes appropriate editorial changes in the other subsections.

Section 37 amends section 319(a) to extend naturalization benefits available to the spouse of a U.S. citizen to any alien who is or was married to a citizen and lived with such citizen in marital union for 3 years. This change would mean that termination of the marriage after such 3 year period of living together would not affect the alien spouse's eligibility for naturalization.

Section 38 amends section 319(b) to permit immediate naturalization of the alien spouse of a U.S. citizen who is regularly stationed abroad in connection with specified employment, eliminating the 30 day waiting period now required.

Section 39 amends section 320 to authorize derivation of U.S. citizenship upon naturalization of a citizen parent having legal custody of an alien child, and enlarges the age limit for derivation of such citizenship to 18. This amendment simplifies and liberalizes the complicated rules in the present statute for derivation of citizenship through the naturalization of parents.

Section 40 repeals, as no longer neecssary in the light of Section 39, the present statutory provisions (section 321) for derivation of citizenship through the naturalization of alien parents.

Section 41 amends section 322 to facilitate naturalization of the alien child, under 18 years of age, of a U.S. citizen, upon application filed by the citizen parent in lieu of a petition for naturalization, and upon taking the oath of allegiance before a naturalization court.

Section 42 amends section 323 to facilitate naturalization of an adopted alien child, under 18 years of age, of a U.S. citizen, upon application filed by the citizen parent in lieu of a petition for naturalization and the taking of the oath of allegiance before a naturalization court. Burdensome residence requirements for the child are eliminated, and the amendment substitutes the simple prerequisites that the adoption must have taken place when the child was under the age of 16 and that the child is in the legal custody of the citizen adoptive parent at the time of naturalization.

Section 43 amends section 328(a) to liberalize special naturalization benefits for honorably discharged veterans with three years service in U.S. armed forces by eliminating limitation of such benefits to those who apply within 6 months after discharge.

Section 44 amends section 328(b)(2) to eliminate the requirement of witnesses to support for naturalization under military veterans statute.

Section 45 adds a new paragraph (4) to section 328(b) to eliminate the requirement of lawful admission for permanent residence by aliens seeking special naturalization benefits on the basis of three years honorable service in U.S. armed forces.

Section 46 makes necessary adjustments in section 328 on the basis of changes in Sections 43, 44, and 45.

Section 47 adjusts section 329(b)(5) in light of the change made in Section 44.

Section 48 amends section 332(b) to extend to approved nonprofit organizations the present statutory provisions for sending to schools the names of naturalization applicants and for distributing citizenship textbooks.

Section 49 amends section 334(a) to eliminate, as burdensome and no longer useful, the requirement that a naturalization petitioner produce two citizens as verifying witnesses.

Section 50 amends section 334(f). While retaining provision for filing declaration of intention, although such declaration is no longer part of the naturalization process, this amendment provides that such declaration must be approved by and filed with the Serivce, instead of with the naturalization court.

Section 51 adjusts statutory language of section 335(b) because of the elimination of a requirement for verifying witnesses to the naturalization petition under Section 49.

Section 52 amends section 335(d) to eliminate the awkward and unprecedented provision that the designated naturalization examiner and the Attorney General may make separate recommendations to the naturalization court in regard to a petition for naturalization court in regard to a petition for naturalization, specifying that the decision of the Attorney General shall be controlling as to the recommendation to be made to the naturalization court.

Section 53 eliminates statutory provisions in paragraphs (f) and (g) of section 335 dealing with verifying witnesses, in light of elimination of the requirements for such witnesses under Section 49.

Section 54 makes editorial changes in paragraph (h), redesignated (f), of section 335 to make it consistent with provisions authorizing temporary absence of applicants performing religious duties abroad.

Section 55 redesignates paragraph (i) of section 335 as paragraph (g) and amends it to authorize transfer of naturalization petition upon approval of the Attorney General when the petitioner changes his residence during the pendency of the petition. The present statute also requires approval of both courts, which serves no useful purpose.

Sections 56, 57, and 58 amend section 336 to adjust the statutory language because of the elimination of the requirement for verifying witnesses under Section 49.

Section 59 amends section 340(f) to specify that children who acquired U.S. citizenship upon naturalization of a parent do not lose such citizenship if the parent's naturalization is later revoked on grounds not involving fraud.

Section 60 eliminates statutory provisions for expatriation under section 349(a) which have specifically been declared unconstitutional by the United States Supreme Court.

Section 61 eliminates the statutory provision in section 352 for expatriation by residence abroad of a naturalized U.S. citizen, which was declared unconstitutional by the United States Supreme Court in *Schneider v. Rusk,* 377 U.S. 163 (1964).

Sections 62, 63 and 64 adjust the statutory language in sections 353, 354, and 355 by eliminating provisions relating to the statutory provision repealed by Section 61.

Sections 65 and 66 amend several statutes relating to enforcement of narcotics and smuggling laws to provide that the Attorney General may provide for the seizure and forfeiture of vessels, vehicles, and aircraft used to transport illegal aliens. The statutes amended already contain provisions granting such authority to the Secretary of the Treasury with respect to vessels, vehicles and aircraft used in smuggling narcotics or other articles into the United States. These statutes would be amended by adding appropriate references to the Attorney General.

Section 67 is a "savings clause" designed to protect and retain the entitlement to immigrant classification of (1) married brothers and sisters of United States citizens who are beneficiaries of petitions filed prior to the effective date of this Act; and (2) of certain Western Hemisphere-born aliens who have qualified as visa applicants on the basis of current regulatory and statutory provisions, but for whom no entitlement to such qualification would exist after the effective date of this Act.

Section 68 would amend the Act of November 2, 1966, by adding a new section 5 which would provide that visa numbers need not be used in connection with the adjustment of status of Cuban refugees in the United States under the provisions of section 1 of that Act.

The present requirement that these refugees compete with other immigrants from the Western Hemisphere has two undesirable effects: (1) it increases the waiting period for other Western Hemisphere immigrants; (2) it delays the opportunity for these refugees to benefit from legislation enacted specifically to permit the ready regularization of their status in this country.

Section 69 establishes, for a three fiscal year period, a special program under which aliens who have been admitted to the Virgin Islands in a nonimmigrant status and who possess an indefinite labor certification granted by the Secretary of Labor pursuant to 212(a)(14) and remaining valid may, without regard to numerical limitations and notwithstanding the prohibition of section 245(c) against the adjustment of status of certain classes of aliens, have their status adjusted to that of permanent resident or be issued immigrant visas. The spouse and

minor unmarried children of any such alien would also be entitled to benefit from this provision.

Section 70 repeals section 21(e) of the Act of October 3, 1965. This section provided for the establishment of the numerical limitation on immigration by aliens born in independent countries of the Western Hemisphere and would be incorporated into the Immigration and Nationality Act itself through section 8 of this bill.

This section also repeals section 8 of the Act of September 11, 1957, which provided authority for waiving the fingerprinting requirements for nonimmigrant aliens, now incorporated into section 221(b), as amended by section 16 of this bill.

Finally section 16 of the Act of September 11, 1957, is repealed. This section provided for absences of up to 12 months during the period of residence and physical presence required under section 301(b) for retention of citizenship.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate, what is the pending question before the Senate?

The PRESIDING OFFICER. The McGovern-Hatfield amendment, No. 862.

Mr. BYRD of West Virginia. Mr. President, I thank the distinguished Presiding Officer.

I am authorized by the majority leader to state that following the disposition of the military procurement bill on tomorrow, it will be the plan of the leadership to call up and dispose of the bill making appropriations for the Treasury and Post Office Departments.

The majority leader wanted Senators to be on notice that such action is contemplated.

ADJOURNMENT UNTIL 8 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 11 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, September 1, 1970, at 8 a.m.

NOMINATION

Executive nomination received by the Senate August 31, 1970:

DEPARTMENT OF STATE

John N. Irwin II, of New York, to be Under Secretary of State.

EXTENSIONS OF REMARKS

RESOLUTIONS ADOPTED BY NATIONAL SOCIETY OF SONS OF THE AMERICAN REVOLUTION

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, August 31, 1970

Mr. THURMOND. Mr. President, the National Society of the Sons of the American Revolution held its 80th annual congress June 7 through June 10 at Houston, Tex. and at that time adopted 11 resolutions.

Because of the importance of these resolutions I ask unanimous consent that they be printed in the Extensions of Remarks.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS

The National Society of the Sons of the American Revolution, at its 80th Annual Congress, assembled from June 7 to 10 at the Rice Hotel, Houston, Texas, adopted by unanimous vote, the following resolutions:

RESOLUTION NO. 1

Whereas: The message of the American Revolution of 1776 was that the State exists for the People, not the People for the State, and that the rights of the individual must be protected from governmental oppression and from every form of tyranny; and

Whereas: It is the responsibility of every American to understand and maintain this American way of life and to pass it on so that it may be enjoyed by succeeding generations; and

Whereas: The best government is that which recognizes and protects the dignity and freedom of the individual to:

Worship God in one's own way;

Free speech and a free press;

Own property and enjoy its use;

Engage in business for a profit;

Work in endeavors and locations of his choice;

Bargain with his employer or employees;

Keep and bear arms to protect his person and property;

Enjoy those other benefits guaranteed by our Bill of Rights; all without arbitrary governmental regulation and control.

Resolved: That the National Society of the Sons of the American Revolution unequivocally supports:

1. The voluntary reading of the Holy Bible and the voluntary offering of prayers in our public schools.

2. The control of our public schools by the Sovereign States.

3. The reduction of government spending and the balancing of our national budget to curb inflation.

4. The minimization of competition of the Federal Government with private industry.

5. The stabilization of our currency.

6. The abolition of all programs which reward indolence and destroy initiative.

7. The strengthening of law enforcement and order on our streets, campuses, and in our communities.

8. The right of the individual to keep and bear arms without the necessity of registration, either direct or indirect.

9. The right of the States to exercise all those sovereign powers not specifically granted to the Federal Government.

10. The withdrawal of the United States from the United Nations and its removal from our country.

11. Discontinuance of all trade with Communistic nations and their satellites.

12. Adherence to the Monroe doctrine.

13. Appropriate concern by the judiciary for the general welfare of all our citizens as well as for that of the wrongdoer.

RESOLUTION NO. 2

Whereas: The Pledge to the SAR was originally drafted to read:

"We descendants of the heroes of the American Revolution who, by their sacrifices, established the United States of America, reaffirm our faith in the principles of liberty and American Democracy, and solemnly pledge ourselves to defend them against every foe"; and

Whereas: The words: "our Constitutional Republic" should have been used instead of the words: "American Democracy";

Resolved: That the National Society of the Sons of the American Revolution reword the Pledge to the SAR to read: "We descendants of the heroes of the American Revolution who, by their sacrifices, established the United States of America, reaffirm our faith in the principles of freedom and our Constitutional Republic and solemnly pledge ourselves to defend them against every foe.

RESOLUTION NO. 3

Whereas: North Vietnam has continuously refused to publish the names of War Prisoners held by their Government and denied the prisoners of war their right to communicate with their families; and

Whereas: North Vietnam has refused the International Red Cross permission to inspect their prison camps; and

Whereas: The North Vietnamese have stated that all captured Americans are regarded as war criminals and they will be tried by their "Peoples Court";

Resolved: That the National Society of the Sons of the American Revolution strongly protest North Vietnam's total disregard of the Geneva Convention and urge that all available steps be taken to secure fair treatment and the release of our Prisoners of War.

RESOLUTION NO. 4

Whereas: The 59th Congress of the United States of America at its first Session, convening on December 4, 1905, and subsequent amendments thereto, incorporated the National Society of the Sons of the American Revolution; and

Whereas: Section Two of said Charter states the purposes and objectives of said corporation and declared it to be patriotic, historical, and educational, and among other things to carry out the position expressed in the Preamble of the Constitution of our country and the injunctions of Washington in his farewell address to the American people; and

Whereas: The National Society of the Sons of the American Revolution meet periodically and address themselves to these purposes and objectives in the form of action programs and resolutions; and

Whereas: The purposes and objectives of this Society cannot be fulfilled by resolutions of its position of such purposes and objectives if not forcefully brought to the attention of the appropriate governments and to the people of our Republic;

Therefore, be it resolved at the 80th Annual Congress meeting at Houston, Texas, June 10, 1970, that the officers and trustees of this Society, during the next year, develop through its processes of bylaw amendments and administrative procedures a definite system whereby resolutions and positions taken by this National Society may be more forcefully implemented through educational means to the governments and the people.

RESOLUTION NO. 5

Whereas: The National Society of the Sons of the American Revolution, desirous of preserving the spiritual and moral principles upon which these United States of America were founded, has, through the years, passed

Resolutions which become the Policy of the National Society, but are often ignored:

Resolved: That the National Society, Sons of the American Revolution call upon all chapters and all members to support all facets of our Society;

Resolved: That the National Society, Sons of the American Revolution commend those chapters and members actively supporting the National and State Societies, and remind those not so doing that they are failing in their duty to the Society as a whole.

RESOLUTION NO. 6

Whereas: The privilege of voting is a solemn responsibility involving maturity and sound judgment concerning which the attainment of 21 years of age is generally regarded as the minimum age limit; and

Whereas: To lower the voting age would permit many minors who lack the necessary experience to manage their own affairs to vote and participate in the management of the affairs of our nation;

Resolved: By the National Society of the Sons of the American Revolution that we oppose any reduction in the age level as a voting requirement.

RESOLUTION NO. 7

Whereas: The responsibility for the defense of our nation should be borne by all eligible citizens, in order to insure the preservation of the liberty of this Country and that this responsibility should be borne by all and not become the exclusive responsibility of a professional military;

Resolved: By the National Society of the Sons of the American Revolution that we call upon the responsible Federal officials to continue the present system of the American tradition of the "citizen-soldier" so that the obligation of military service shall be equitably distributed throughout the able-bodied population of this Nation, without regard to rank, wealth or other distinction than patriotism and love of country, as against any proposed strictly voluntary army.

Be it further resolved: We reaffirm our support of the ROTC.

RESOLUTION NO. 8

Whereas: We see and read where some young and old engage in parades, marches and demonstrations, in which the flag of North Vietnam is displayed; and

Whereas: Such an act is in fact giving aid and comfort to our communist enemies, and contains all the elements of treason save and except that there has been no formal declaration of war against North Vietnam; and no such act would be committed save by an enemy of this country.

Resolved: By the National Society of the Sons of the American Revolution meeting at Houston, Texas, that we denounce the display of the flag of North Vietnam in such circumstances as traitorous and unforgivable, and call upon the proper law enforcement offices to stop such display and if present laws are not adequate we call upon Congress to enact suitable laws concerning such display.

RESOLUTION NO. 9

Whereas: The United States has not only joined Britain in backing the United Nations sanctions toward friendly Rhodesia, but has closed the United States consulate and severed diplomatic relations with Rhodesia; and

Whereas: These sanctions, imposed without public approval, unfairly penalize a friendly nation, are inimical to American defense and economic interests, and give an extraordinary price monopoly to Soviet Russia on some vital commodities, such as chrome, thereby rewarding the Soviets who are the chief source of supplies to the forces killing American men in South Vietnam;

Resolved: That the National Society of the Sons of the American Revolution support the economic and strategic interests of the United States of America and to that end urge the immediate establishment of diplomatic relations and resumption of trade with the Republic of Rhodesia.

RESOLUTION NO. 10

Resolved: That we support the President of the United States in his policy of going into Cambodia to win and ending all enemy sanctuaries and that the President be so advised.

RESOLUTION NO. 11

A Resolution to express appreciation to those whose time and energy went into the 80th Annual Congress of the Sons of the American Revolution.

Whereas: The 80th Annual Congress of the National Society of the Sons of the American Revolution has been exceedingly successful, and

Whereas: Our appreciation should be extended to the many individuals and groups that contributed to the success of this Congress;

Now, therefore, be it resolved: That the National Society of the Sons of the American Revolution hereby expresses its most grateful appreciation to President General James B. Gardiner for the time and effort he has given to make his administration an outstanding one, and

Be it further resolved: That our appreciation be given to our Executive Secretary, Warren S. Woodward, and his lovely wife, Gisela, who made the arrangements, and took part in the excellent program which was presented. Also our special commendations to Executive Secretary Woodward on account of the two awards, for the second straight year, received by him from the Freedoms Foundation, one for the SAR Magazine and the other to its Editor; and

Be it further resolved that our grateful appreciation and thanks be extended to:

The Color Guard of the Houston Independent School District R.O.T.C.

The Honorable Weaver Moore who represented the Governor of the State of Texas in an address of welcome;

The Honorable Walter Gage Sterling who represented the Mayor of Houston in an address of welcome;

The Honorable Louie Welch, Mayor of the City of Houston, for having officially proclaimed the week of June 7 through 13, 1970, as S.A.R. Week.

Compatriot Dixon H. Manly, General Chairman of Arrangements for the Congress, Compatriot Edwin D. Martin, Ph.D., General Co-Chairman of Arrangements for the Congress, and the members of the Texas Society who assisted them;

The Christ Church Cathedral for its kindness in furnishing facilities and assistance for the Memorial Service;

Mr. Dan Smoot, for his address at the luncheon on Monday;

Major General Thomas A. Lane (USA, Ret.), for his address on Tuesday evening;

The Honorable Clark R. Mollenhoff, Special Counsel to the President, for his address on Wednesday evening.

Mrs. Walter G. Sterling, Chairman of the Ladies Affairs Committee; Mrs. Robert I. Sonfield, Chairman of the Hospitality Committee; and Mrs. James T. Anderson of the Information Committee for their kindness and efficiency during the course of this 80th Annual Congress;

Mrs. Wilson K. Barnes, Organizing Secretary General, National Society, Daughters of the American Revolution, representing Mrs. Erwin F. Seimes, President General, National Society, Daughters of the American Revolution;

Dr. Margaret Willoughby, Senior State President, Texas Society, Children of the American Revolution, representing Mrs. Robert S. Hudgins, Senior National President, Children of the American Revolution;

Mr. Thomas McCune Slick, National Chaplain, Children of the American Revolution, representing Mr. Lance D. Ehmcke, National President, Children of the American Revolution.

Mr. Thomas T. Currie, President, Texas Society, Sons of the American Revolution.

Mrs. Ford Hubbard, Sr., State Regent, Texas Society, Daughters of the American Revolution.

Lt. David Alan York, USMC, a member of the Kentucky Society, Sons of the American Revolution, representing the Armed Forces of the United States.

Be it further resolved: That the National Society, Sons of the American Revolution, in this 80th Annual Congress assembled, hereby express its sincerest appreciation to all others whose efforts contributed to the success of this Congress.

LEGISLATION TO REQUIRE THE OPEN DATING OF PACKAGED FOOD—XII

HON. LEONARD FARBSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 14, 1970

Mr. FARBSTEIN. Mr. Speaker, last June, I filed a petition with the Federal Trade Commission asking it to require the last date a food can safely be kept on the grocer's shelves to appear on the label of all perishable, semiperishable, and canned foods. The objective is the same as that of H.R. 14816, legislation I first introduced last November, and which currently has 60 cosponsors in the House.

I filed the petition because of my belief that coded dating is a violation of section 5 of the Federal Trade Act and that the FTC has the authority through regulations to require open dating. While the objective of the petition is identical to that of my legislation, administrative action by the FTC could be taken more easily and quicker. The Congress will not be able to begin hearings on the proposal until the beginning of the 92d Congress, the FTC can act now.

The Washington Post on Saturday carried an editorial urging the FTC to take quick action on my petition .

I hope the FTC will heed the Post's call, and that interested consumers will write the FTC chairman to let him know that they are watching the action or lack of action by the Commission on this subject as an indication of whether the recent changes in the FTC's image are genuine or merely the result of good public relations .

The text of the editorial follows:

[From the Washington Post, Aug. 29, 1970]

SHELF LIFE

When a consumer returns from the supermarket or grocery store, opens a can of food for dinner and finds the contents spoiled or rotting, does he or she conclude, "well, that's my bad luck"? Or does the consumer suspect that perhaps canned foods are not good indefinitely, and that some date should have been printed on the can to say when it should have been pulled before spoiling set in? The answer, in our view, is that canned items probably do have a maximum safe "shelf life"—that there is a limit on how long a food keeps those qualities of nutrition and flavor for which the consumer bought it.

Rep. Leonard Farbstein, long a speaker for

consumers, has recently acquired facts that canned food, contrary to the claims of the National Canners Association and the Food and Drug Administration, does not last "indefinitely." Among his facts are those supplied by the Defense Department whose laboratory in Natick, Mass., does extensive testing on a large number of items from apples to yeast and concludes: "Rarely . . . would one call these foods good indefinitely." Other evidence includes the consumer in Baton Rouge, La., who bought a case of strained baby meats last May that turned out to be eight years old; a Pennsylvania consumer who purchased a jar of mayonnaise that was two years old and rancid; a Chicago shopper with a can of five-year-old chicken.

The FDA has tried to face the issue of shelf life. In its "fact sheet," the agency writes: "How long will canned foods keep? Canned foods will keep as long as nothing happens to the container to make it leak." One feels secure until it is discovered that the FDA's wording is strangely similar to that in a "consumer services" publication of the National Canners Association: "How long will canned foods keep? Canned foods will keep just as long as nothing happens to the can or jar to make it leak." Curious, Representative Farbstein checked out the similarity in wording. The FDA fact sheet, admitted an FDA official, was partially based on information sent over by the Canners Association.

The Federal Trade Commission has been asked to investigate this matter by Representative Farbstein. Action is obviously needed, not only to tell the consumer that canned foods do not last "indefinitely," but to force the local store manager to remove canned foods from the shelf before the safe date expires. Although the canners say that "a regular turnover about once a year is best," legislation is needed to require the dating of canned foods so that it is not left to the retailer to count the months before turnover time. The evidence is strong that canned food is not spoiled only by leaks or punctures in the can.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 14, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?